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# THE ALL ENGLAND LAW REPORTS

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Tables and Index 1998

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Index Editor

CHRISTINE IVAMY MA

of Gray's Inn, Barrister

 Butterworths

20 JAN 1999

# THE ALL ENGLAND LAW REPORTS

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## Tables and Index 1998

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# Introduction

The Tables and Index 1998 covers all the cases reported in the five volumes of the All England Law Reports for 1998 (including the European Cases volume) and is a continuation of the Consolidated Tables and Index 1936–1995 and the Cumulative Tables and Index 1996–1997. For information concerning the use of this index readers should refer to the introductions to volumes 1 and 2 of the 1936–1995 index.

The tables and index consists of five sections:

- a table of cases reported and judicially considered; this table lists alphabetically all cases reported in the All England Law Reports in 1998, and in addition it lists all cases of any date which have been reported in the All England Law Reports and the All England Law Reports Reprint and which were judicially considered, ie applied, distinguished, overruled and so on, in cases reported during 1998
- a table of practice directions and notes issued in 1998
- a table of statutes etc judicially considered in 1998
- a table of words and phrases judicially considered in 1998
- a subject index, including a full system of cross-references, of all cases reported in 1998

The Tables and Index 1998 together with the Cumulative Tables and Index 1996–1997 and the three volumes of the Consolidated Tables and Index 1936–1995 provide a complete index of cases reported in the All England Law Reports from 1936 to the end of 1998.

The index is separate from the 1998 volumes of the All England Law Reports and should therefore *not* be sent in for binding with the loose parts of the reports.

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- Considered, Halki Shipping Corp v Sopex Oils Ltd [1998] 2 23
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- Dictum applied, Greenwich Healthcare National Health Service Trust v London and Quadrant Housing Trust [1998] 3 437
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     Applied, Longden v British Coal Corp [1998] 1 289  
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     Considered, Barrett v Morgan [1998] 4 179  
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     Applied, Abbey National plc v Frost (Solicitors' Indemnity Fund Ltd intervening) [1998] 2 321  
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     Applied, I M Properties plc v Cape & Dalglish (a firm) [1998] 3 203  
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     Reversed in part [1982] 1 354, CA  
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     Considered, R v Manning [1998] 4 876  
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     Affirmed [1996] 3 289, HL  
     Applied, R v Chalkley [1998] 2 155  
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     Distinguished, R v Lord Chancellor, ex p Lightfoot [1998] 4 764  
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     Applied, R v Minister of Agriculture, Fisheries and Food, ex p Compassion in World Farming Ltd (CIWF) (Case C-1/96) [1998] EC 302  
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     Affirmed [1996] 1 257, CA  
     Leave to appeal refused [1996] 2 xix, HL  
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     Considered, R v Woollin [1998] 4 103  
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     Reversed [1995] 3 659, HL  
     Distinguished, R v Smith [1998] 4 387  
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     Applied, R v Manning [1998] 4 876  
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     Applied, Whiston v Whiston [1998] 1 423  
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     Applied, R v Woollin [1998] 4 103  
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     Leave to appeal refused [1998] 2 xix, HL  
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     Leave to appeal refused [1998] 1 xix, HL  
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     Considered, R v Uddin [1998] 2 744  
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     Affirmed [1991] 2 88, CA  
     Applied, Whiston v Whiston [1998] 1 423  
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     Applied, R v Chalkley [1998] 2 155  
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     Considered, R v Secretary of State for the Home Dept, ex p Simms [1998] 2 491  
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     Applied, Whiston v Whiston [1998] 1 423  
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     Distinguished, R v Secretary of State for the Home Dept, ex p Canbolat [1998] 1 161  
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     Affirmed [1997] 3 97, HL  
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     Dictum applied, Teachers' Pension Agency v Hill [1998] 4 865  
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     Affirmed on other grounds [1998] 4 367, CA

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     Distinguished, R v Nelson Group Services (Maintenance) Ltd [1998] 4 331  
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     Applied, DPP v Hynde [1998] 1 649  
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     Followed, R v Smith [1998] 4 387  
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     Distinguished, B v DPP [1998] 4 265  
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     Applied, R v Kelly [1998] 3 741  
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     Applied, R v Dudley Magistrates' Court, ex p Hollis [1998] 1 759  
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     Considered, Dilioto v Ealing London BC [1998] 2 885  
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     Considered, R v Clerkenwell Metropolitan Stipendiary Magistrate, ex p Hooper [1998] 4 193  
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     Applied, Barry v Midland Bank plc [1998] 1 805  
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     Affirmed [1982] 1 756, HL  
     Considered, R v Secretary of State for the Home Dept, ex p Simms [1998] 2 491  
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     Considered, R v Chief Constable of the Warwickshire Constabulary, ex p Fitzpatrick [1998] 1 65  
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     Affirmed [1966] 3 657, CA  
     Affirmed [1967] 3 993, HL  
     Applied, Atwell v Michael Perry & Co (a firm) [1998] 4 65  
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     Reversed [1937] 3 660, HL  
     Applied, Re Galileo Group Ltd [1998] 1 545  
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     Applied, Andreou v Institute of Chartered Accountants in England and Wales [1998] 1 14  
     Applied, Hutchings v Islington London BC [1998] 3 445  
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     Doubted and not followed, Royal Bank of Scotland plc v Etridge (No 2) [1998] 4 705  
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     Leave to appeal refused [1998] 4 xix, HL  
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     Applied, Whiston v Whiston [1998] 1 423  
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     Considered, St George's Healthcare NHS Trust v S [1998] 3 673  
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     Reversed [1978] 3 1033, HL  
     Applied, Atwell v Michael Perry & Co (a firm) [1998] 4 65  
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|--------|----|----|--------------|

#### Criminal Damage Act 1971

|           |    |    |              |
|-----------|----|----|--------------|
| s 1(1)    | .. | .. | [1998] 2 538 |
| s 5(2)(b) | .. | .. | [1998] 2 538 |

#### Criminal Justice Act 1967

|         |    |    |              |
|---------|----|----|--------------|
| s 8(b)  | .. | .. | [1998] 4 103 |
| s 67(4) | .. | .. | [1998] 1 357 |

#### Criminal Justice Act 1982

|            |    |    |              |
|------------|----|----|--------------|
| s 1A       | .. | .. | [1998] 4 24  |
| s 1B       | .. | .. | [1998] 1 874 |
| s 1C(1)(2) | .. | .. | [1998] 2 313 |

#### Criminal Justice Act 1987

|        |    |    |               |
|--------|----|----|---------------|
| s 5(1) | .. | .. | [1998] 4 1023 |
|--------|----|----|---------------|

#### Criminal Justice Act 1988

|          |    |    |              |
|----------|----|----|--------------|
| s 93H    | .. | .. | [1998] 2 193 |
| s 134(1) | .. | .. | [1998] 4 897 |

#### Criminal Justice Act 1991

|        |    |    |             |
|--------|----|----|-------------|
| s 2    | .. | .. | [1998] 1 42 |
| s 3(3) | .. | .. | [1998] 1 42 |
| s 31   | .. | .. | [1998] 1 42 |

#### Criminal Justice Act 1991 (cont)

|         |    |    |                   |
|---------|----|----|-------------------|
| s 33    | .. | .. | [1998] 1 929      |
| s 33(5) | .. | .. | [1998] 1 357      |
| s 34    | .. | .. | [1998] 2 939      |
| s 35(2) | .. | .. | [1998] 4 7        |
| s 40    | .. | .. | [1998] 1 357      |
| s 51(2) | .. | .. | [1998] 1 357, 929 |

#### Criminal Justice and Public Order Act 1994

|      |    |    |              |
|------|----|----|--------------|
|      |    |    | [1998] 3 624 |
| s 34 | .. | .. | [1998] 3 805 |

#### Criminal Procedure and Investigations Act 1996

[1998] 3 624

#### Customs and Excise Management Act 1979

|       |    |    |              |
|-------|----|----|--------------|
| s 170 | .. | .. | [1998] 3 618 |
|-------|----|----|--------------|

#### Dangerous Dogs Act 1991

|        |    |    |             |
|--------|----|----|-------------|
| s 1    | .. | .. | [1998] 1 60 |
| s 4(1) | .. | .. | [1998] 1 60 |

#### Drug Trafficking Offences Act 1986

|      |    |    |              |
|------|----|----|--------------|
|      |    |    | [1998] 1 692 |
| s 5  | .. | .. | [1998] 1 692 |
| s 14 | .. | .. | [1998] 1 692 |

#### Education Act 1993

|       |    |    |              |
|-------|----|----|--------------|
| s 298 | .. | .. | [1998] 2 769 |
|-------|----|----|--------------|

#### Employment Protection (Consolidation) Act 1978

|                    |    |    |              |
|--------------------|----|----|--------------|
| s 64               | .. | .. | [1998] 4 353 |
| Sch 13, para 17(2) |    |    | [1998] 4 353 |

#### Employment Rights Act 1996

|          |    |    |              |
|----------|----|----|--------------|
| s 95(1)  | .. | .. | [1998] 2 845 |
| s 197(1) | .. | .. | [1998] 2 845 |

#### Environmental Protection Act 1990

|            |    |    |              |
|------------|----|----|--------------|
| s 79(1)(a) | .. | .. | [1998] 3 603 |
| s 82(2)    | .. | .. | [1998] 1 759 |
| s 82(12)   | .. | .. | [1998] 1 759 |

#### Equal Pay Act 1970

|        |    |    |              |
|--------|----|----|--------------|
| s 1    | .. | .. | [1998] 1 805 |
| s 1(3) | .. | .. | [1998] 1 394 |
| s 2(4) | .. | .. | [1998] 1 528 |
| s 2(5) | .. | .. | [1998] 1 528 |

#### Estate Agents Act 1979

|              |    |    |              |
|--------------|----|----|--------------|
| s 3(1)(a)(i) | .. | .. | [1998] 1 997 |
|--------------|----|----|--------------|

#### Evidence (Proceedings in Other Jurisdictions) Act 1975

|     |    |    |              |
|-----|----|----|--------------|
| s 2 | .. | .. | [1998] 4 439 |
|-----|----|----|--------------|

#### Extradition Act 1870

|       |    |    |              |
|-------|----|----|--------------|
| Sch 1 | .. | .. | [1998] 1 264 |
|-------|----|----|--------------|

#### Extradition Act 1989

|                |    |    |               |
|----------------|----|----|---------------|
| s 1(1)         | .. | .. | [1998] 3 1007 |
| s 1(3)         | .. | .. | [1998] 1 264  |
| s 2            | .. | .. | [1998] 1 264  |
| Sch 1, para 6  | .. | .. | [1998] 3 624  |
| Sch 1, para 20 |    |    | [1998] 1 264  |

#### Family Law Act 1996

|       |    |    |              |
|-------|----|----|--------------|
| Pt IV | .. | .. | [1998] 2 927 |
|-------|----|----|--------------|

#### Financial Services Act 1986

|     |    |    |              |
|-----|----|----|--------------|
| s 3 | .. | .. | [1998] 1 514 |
|-----|----|----|--------------|

**Financial Services Act 1986 (cont)**

|              |              |
|--------------|--------------|
| s 6(2) .. .. | [1998] 1 514 |
| s 54 .. ..   | [1998] 1 711 |

**Food Safety Act 1990**

|               |              |
|---------------|--------------|
| s 32(1) .. .. | [1998] 3 163 |
| s 33(1)(3) .. | [1998] 3 163 |

**Gaming Act 1968**

|               |              |
|---------------|--------------|
| s 34(3) .. .. | [1998] 2 417 |
| s 38(6) .. .. | [1998] 2 417 |

**Health and Safety at Work etc Act 1974**

|               |              |
|---------------|--------------|
|               | [1998] 3 522 |
| s 3(1) .. ..  | [1998] 4 331 |
| s 33(1) .. .. | [1998] 4 331 |

**Highways Act 1980**

|            |              |
|------------|--------------|
| s 31 .. .. | [1998] 2 587 |
| s 41 .. .. | [1998] 1 564 |

**Homicide Act 1957**

|           |              |
|-----------|--------------|
| s 3 .. .. | [1998] 4 387 |
|-----------|--------------|

**Housing Act 1985**

|                   |              |
|-------------------|--------------|
| s 62 .. ..        | [1998] 4 137 |
| Pt V (ss 118–188) | [1998] 1 775 |
| s 127 .. ..       | [1998] 3 260 |
| s 167 .. ..       | [1998] 3 260 |
| s 168 .. ..       | [1998] 3 260 |
| Sch 6, para 5 ..  | [1998] 3 260 |

**Housing Grants, Construction and Regeneration Act 1996**

|            |              |
|------------|--------------|
| s 23 .. .. | [1998] 3 788 |
|------------|--------------|

**Indecency with Children Act 1960**

|              |              |
|--------------|--------------|
| s 1(1) .. .. | [1998] 4 265 |
|--------------|--------------|

**Insolvency Act 1986**

|                |                   |
|----------------|-------------------|
| s 11(3) .. ..  | [1998] 3 812      |
| s 14(3) .. ..  | [1998] 1 121      |
| s 18(1) .. ..  | [1998] 1 121      |
| s 18(3) .. ..  | [1998] 1 121      |
| s 236 .. ..    | [1998] 1 545, 577 |
| s 272 .. ..    | [1998] 4 764      |
| s 279(3) .. .. | [1998] 3 250      |
| s 415 .. ..    | [1998] 4 764      |

**Insurance Companies Act 1982**

|              |              |
|--------------|--------------|
| Sch 2C .. .. | [1998] 3 176 |
|--------------|--------------|

**Juries Act 1974**

|               |              |
|---------------|--------------|
| s 12(3) .. .. | [1998] 1 823 |
|---------------|--------------|

**Justices of the Peace Act 1361**

|  |              |
|--|--------------|
|  | [1998] 4 193 |
|--|--------------|

**Land Compensation Act 1961**

|               |              |
|---------------|--------------|
| s 5, r (5) .. | [1998] 1 33  |
| s 17(4) .. .. | [1998] 4 838 |
| s 22(2) .. .. | [1998] 4 838 |

**Land Registration Act 1925**

|            |              |
|------------|--------------|
| s 75 .. .. | [1998] 4 948 |
|------------|--------------|

**Landlord and Tenant Act 1954**

|               |              |
|---------------|--------------|
| s 26 .. ..    | [1998] 3 596 |
| s 37 .. ..    | [1998] 2 241 |
| s 38(2) .. .. | [1998] 2 241 |

**Landlord and Tenant Act 1988**

|              |             |
|--------------|-------------|
| s 1(3) .. .. | [1998] 3 32 |
| s 1(3)(b) .. | [1998] 3 52 |

**Law of Property Act 1925**

|                |               |
|----------------|---------------|
| s 36(2) .. ..  | [1998] 4 650  |
| s 84(1) .. ..  | [1998] 3 1014 |
| s 193 .. ..    | [1998] 2 587  |
| s 196(3) .. .. | [1998] 4 650  |

**Law Reform (Contributory Negligence) Act 1945**

|           |              |
|-----------|--------------|
| s 1 .. .. | [1998] 4 252 |
|-----------|--------------|

**Legal Aid Act 1988**

|               |              |
|---------------|--------------|
| s 16(5) .. .. | [1998] 4 779 |
|---------------|--------------|

**Licensing Act 1964**

|               |              |
|---------------|--------------|
| s 76(7) .. .. | [1998] 2 812 |
| s 77 .. ..    | [1998] 2 812 |
| s 78A .. ..   | [1998] 2 465 |
| s 81(3) .. .. | [1998] 2 812 |

**Limitation Act 1980**

|               |              |
|---------------|--------------|
| s 9 .. ..     | [1998] 1 33  |
| s 14(3) .. .. | [1998] 3 324 |
| s 24(1) .. .. | [1998] 3 897 |
| s 24(2) .. .. | [1998] 3 897 |
| s 32(1)(c) .. | [1998] 4 513 |
| s 34(3) .. .. | [1998] 2 990 |

**Litigants in Person (Costs and Expenses) Act 1975**

|              |              |
|--------------|--------------|
| s 1(1) .. .. | [1998] 4 500 |
|--------------|--------------|

**Local Government and Housing Act 1989**

|                  |              |
|------------------|--------------|
| Pt VI (ss 74–88) | [1998] 1 937 |
|------------------|--------------|

**Local Government (Miscellaneous Provisions) Act 1976**

|               |              |
|---------------|--------------|
| s 51(1) .. .. | [1998] 3 889 |
|---------------|--------------|

**Magistrates' Courts Act 1980**

|                  |              |
|------------------|--------------|
| s 10 .. ..       | [1998] 1 759 |
| s 22 .. ..       | [1998] 3 798 |
| s 24 .. ..       | [1998] 1 365 |
| s 46 .. ..       | [1998] 4 331 |
| s 54 .. ..       | [1998] 1 759 |
| s 127(1) .. ..   | [1998] 1 559 |
| s 127(2) .. ..   | [1998] 1 559 |
| Sch 2 .. ..      | [1998] 3 798 |
| Sch 3, para 1(1) | [1998] 4 331 |

**Marine Insurance Act 1906**

|               |              |
|---------------|--------------|
| s 53(2) .. .. | [1998] 1 946 |
|---------------|--------------|

**Matrimonial Causes Act 1973**

|               |                            |
|---------------|----------------------------|
| s 11(c) .. .. | [1998] 1 431               |
| s 24 .. ..    | [1998] 4 1                 |
| s 25 .. ..    | [1998] 1 423, [1998] 4 659 |
| s 25(1) .. .. | [1998] 1 431               |
| s 37(2) .. .. | [1998] 4 1                 |

**Mental Health Act 1983**

|               |                            |
|---------------|----------------------------|
| s 2 .. ..     | [1998] 3 673               |
| s 73(1) .. .. | [1998] 3 360               |
| s 117 .. ..   | [1998] 3 180               |
| s 131 .. ..   | [1998] 1 634, [1998] 3 289 |

**Merchant Shipping Act 1995**

|             |              |
|-------------|--------------|
| Sch 7 .. .. | [1998] 4 238 |
|-------------|--------------|



# **Nuclear Installations Act 1965**

|      |    |    |              |
|------|----|----|--------------|
| s 7  | .. | .. | [1998] 3 385 |
| s 12 | .. | .. | [1998] 3 385 |

# **Patents Act 1977**

|      |    |    |              |
|------|----|----|--------------|
| s 72 | .. | .. | [1998] 2 960 |
|------|----|----|--------------|

# **Pension Schemes Act 1993**

|       |    |    |              |
|-------|----|----|--------------|
| s 146 | .. | .. | [1998] 2 547 |
|-------|----|----|--------------|

# **Pensions (Increase) Act 1971**

|      |    |    |              |
|------|----|----|--------------|
| s 17 | .. | .. | [1998] 4 508 |
|------|----|----|--------------|

# **Police and Criminal Evidence Act 1984**

|        |    |    |              |
|--------|----|----|--------------|
| s 8    | .. | .. | [1998] 1 65  |
| s 9(1) | .. | .. | [1998] 2 193 |
| s 15   | .. | .. | [1998] 1 65  |
| s 16   | .. | .. | [1998] 1 65  |
| s 26   | .. | .. | [1998] 4 248 |
| s 78   | .. | .. | [1998] 2 155 |

# **Prison Act 1952**

|         |    |    |              |
|---------|----|----|--------------|
| s 47(1) | .. | .. | [1998] 2 491 |
|---------|----|----|--------------|

# **Prosecution of Offences Act 1985**

|            |    |    |              |
|------------|----|----|--------------|
| s 16(5)    | .. | .. | [1998] 3 765 |
| s 22(3)(b) | .. | .. | [1998] 2 1   |

# **Protection of Children Act 1978**

|           |    |    |              |
|-----------|----|----|--------------|
| s 1(1)(4) | .. | .. | [1998] 1 403 |
| s 2(3)    | .. | .. | [1998] 1 403 |

# **Race Relations Act 1976**

|        |    |    |              |
|--------|----|----|--------------|
| s 1    | .. | .. | [1998] 2 953 |
| s 7(1) | .. | .. | [1998] 1 52  |

# **Rent Act 1977**

|          |    |    |              |
|----------|----|----|--------------|
| s 24(3)  | .. | .. | [1998] 1 657 |
| s 137(3) | .. | .. | [1998] 1 657 |

# **Road Traffic Act 1988**

|           |    |    |              |
|-----------|----|----|--------------|
| s 7(3)(4) | .. | .. | [1998] 3 769 |
| s 8(2)    | .. | .. | [1998] 3 769 |
| s 145     | .. | .. | [1998] 4 417 |
| s 151     | .. | .. | [1998] 4 417 |
| s 192     | .. | .. | [1998] 4 417 |

# **Sale of Goods Act 1979**

|      |    |    |               |
|------|----|----|---------------|
| s 18 | .. | .. | [1998] 1 1010 |
|------|----|----|---------------|

# **Sex Discrimination Act 1975**

|     |    |    |               |
|-----|----|----|---------------|
|     |    |    | [1998] EC 865 |
| s 1 | .. | .. | [1998] 3 852  |

# **Social Security Administration Act 1992**

|         |    |    |             |
|---------|----|----|-------------|
| s 81(5) | .. | .. | [1998] 2 58 |
|---------|----|----|-------------|

# **Social Security Pensions Act 1975**

|      |    |    |              |
|------|----|----|--------------|
| s 59 | .. | .. | [1998] 4 508 |
|------|----|----|--------------|

# **Solicitors Act 1974**

|         |    |    |              |
|---------|----|----|--------------|
| s 31    | .. | .. | [1998] 2 720 |
| s 59(2) | .. | .. | [1998] 3 65  |
| s 60(3) | .. | .. | [1998] 2 301 |

# **State Immunity Act 1978**

|         |    |    |              |
|---------|----|----|--------------|
| s 1     | .. | .. | [1998] 4 897 |
| s 14(1) | .. | .. | [1998] 4 897 |
| s 20    | .. | .. | [1998] 4 897 |

# **Supreme Court Act 1981**

|          |    |    |               |
|----------|----|----|---------------|
| s 15(4)  | .. | .. | [1998] 1 703  |
| s 17(1)  | .. | .. | [1998] 1 703  |
| s 35A(1) | .. | .. | [1998] 3 203  |
| s 51(1)  | .. | .. | [1998] 2 873  |
| s 75(1)  | .. | .. | [1998] 4 1023 |
| s 87     | .. | .. | [1998] 1 343  |

# **Taking of Hostages Act 1982**

|        |    |    |              |
|--------|----|----|--------------|
| s 1(1) | .. | .. | [1998] 4 897 |
|--------|----|----|--------------|

# **Theft Act 1968**

|            |    |    |              |
|------------|----|----|--------------|
| s 1        | .. | .. | [1998] 3 741 |
| s 4        | .. | .. | [1998] 3 741 |
| s 5        | .. | .. | [1998] 3 741 |
| s 17(1)(a) | .. | .. | [1998] 4 876 |
| s 20(2)    | .. | .. | [1998] 4 876 |

# **Town and Country Planning Act 1990**

|        |    |    |              |
|--------|----|----|--------------|
| s 171B | .. | .. | [1998] 2 885 |
| s 187A | .. | .. | [1998] 2 885 |

# **Town and Country Planning (Scotland) Act 1972**

|       |    |    |              |
|-------|----|----|--------------|
| s 18A | .. | .. | [1998] 1 174 |
| s 52  | .. | .. | [1998] 1 174 |

# **Trade Marks Act 1994**

|         |    |    |              |
|---------|----|----|--------------|
| s 10(3) | .. | .. | [1998] 4 476 |
|---------|----|----|--------------|

# **Transport Act 1962**

|         |    |    |              |
|---------|----|----|--------------|
| s 67(1) | .. | .. | [1998] 2 203 |
|---------|----|----|--------------|

# **Vagrancy Act 1824**

|     |    |    |              |
|-----|----|----|--------------|
| s 6 | .. | .. | [1998] 4 248 |
|-----|----|----|--------------|

# **Value Added Tax Act 1983**

|               |    |    |               |
|---------------|----|----|---------------|
| s 4           | .. | .. | [1998] 3 342  |
| s 5           | .. | .. | [1998] 3 342  |
| s 10          | .. | .. | [1998] 3 342  |
| s 29          | .. | .. | [1998] 3 342  |
| s 47(2)(a)(3) | .. | .. | [1998] 2 1003 |

# **Value Added Tax Act 1994**

|     |    |    |              |
|-----|----|----|--------------|
| s 4 | .. | .. | [1998] 4 115 |
|-----|----|----|--------------|

# **Water Resources Act 1991**

|         |    |    |              |
|---------|----|----|--------------|
| s 85(1) | .. | .. | [1998] 1 481 |
|---------|----|----|--------------|

# **Wildlife and Countryside Act 1981**

|                   |  |  |              |
|-------------------|--|--|--------------|
| s 53(3)(c)(i)(5)  |  |  | [1998] 4 367 |
| Sch 14, para 4(2) |  |  | [1998] 4 367 |

# **G - RULES OF THE SUPREME COURT**

## **RSC 1965**

|                 |    |              |
|-----------------|----|--------------|
| Ord 3, r 5      | .. | [1998] 1 595 |
| Ord 6, r 8      | .. | [1998] 1 409 |
| Ord 13, r 9     | .. | [1998] 4 753 |
| Ord 19, r 2     | .. | [1998] 3 331 |
| Ord 19, r 7(1)  | .. | [1998] 2 638 |
| Ord 24, r 10(1) | .. | [1998] 2 971 |
| Ord 24, r 13(1) | .. | [1998] 2 971 |
| Ord 24, r 16(1) | .. | [1998] 4 408 |
| Ord 29, r 11(2) | .. | [1998] 4 145 |
| Ord 33, r 4A    | .. | [1998] 2 361 |
| Ord 34, r 3(1)  | .. | [1998] 2 672 |
| Ord 35, r 2(1)  | .. | [1998] 1 372 |
| Ord 42, r 3(2)  | .. | [1998] 1 305 |
| Ord 62, r 3(3)  | .. | [1998] 2 755 |

## RSC 1965 (cont)

|                                      |                            |
|--------------------------------------|----------------------------|
| Ord 62, r 12(1)                      | [1998] 1 82                |
| Ord 62, r 28                         | [1998] 1 383               |
| Ord 62, App 2, Pt I,<br>para 2(1)(a) | [1998] 3 909               |
| Ord 65, r 4(3)                       | [1998] 2 321               |
| Ord 65, r 5(2B)                      | [1998] 3 331               |
| Ord 104                              | [1998] 1 279, [1998] 3 372 |

## RSC (Amendment) 1996

|         |              |
|---------|--------------|
| rr 8, 9 | [1998] 1 343 |
|---------|--------------|

## H - COUNTY COURT RULES

### County Court Rules 1981

|                 |                           |
|-----------------|---------------------------|
| Ord 9, r 10     | [1998] 2 513, 534         |
| Ord 11, r 1     | [1998] 3 631              |
| Ord 13, r 3(1)  | [1998] 1 775              |
| Ord 17, r 11    | [1998] 2 356, [1998] 3 97 |
| Ord 18          | [1998] 2 68               |
| Ord 21, r 2     | [1998] 2 68               |
| Ord 22, r 8(1A) | [1998] 4 63               |

## K - OTHER RULES

### Crown Court Rules 1982

|          |              |
|----------|--------------|
| r 26(14) | [1998] 1 912 |
|----------|--------------|

### Family Proceedings Rules 1991

|        |              |
|--------|--------------|
| r 4.23 | [1998] 2 801 |
|--------|--------------|

### Financial Services (Compensation of Investors) Rules 1990

|          |              |
|----------|--------------|
| r 1.02.3 | [1998] 1 711 |
|----------|--------------|

### General Medical Council Preliminary Proceedings Committee and Professional Conduct Committee (Procedure) Rules 1988

|      |              |
|------|--------------|
| r 27 | [1998] 3 426 |
| r 28 | [1998] 3 426 |

### Hague Rules

|             |              |
|-------------|--------------|
| art IV, r 3 | [1998] 1 495 |
| art IV, r 6 | [1998] 1 495 |

### Insolvency Rules 1986

|           |              |
|-----------|--------------|
| r 6.42(1) | [1998] 4 764 |
|-----------|--------------|

### Prison Rules 1964

|       |              |
|-------|--------------|
| r 33  | [1998] 2 491 |
| r 37A | [1998] 2 491 |

### Solicitors Practice Rules 1990

|     |              |
|-----|--------------|
| r 7 | [1998] 2 720 |
|-----|--------------|

## L - REGULATIONS

### Civil Legal Aid (General) Regulations 1989

|                      |              |
|----------------------|--------------|
| regs 87(1)(a), 91(2) | [1998] 4 779 |
|----------------------|--------------|

### Income Support (General) Regulations 1987

|                |              |
|----------------|--------------|
| reg 21(3)      | [1998] 2 728 |
| reg 21(3)(h)   | [1998] 1 129 |
| Sch 7, para 17 | [1998] 2 728 |

### National Health Service (Superannuation) Regulations 1980

|              |              |
|--------------|--------------|
| reg 56(3)(c) | [1998] 4 508 |
|--------------|--------------|

### Occupational Pension Schemes (Equal Access to Membership) Regulations (Northern Ireland) 1976

|        |              |
|--------|--------------|
| reg 12 | [1998] EC 38 |
|--------|--------------|

### Teachers' Superannuation (Consolidation) Regulations 1988

|           |              |
|-----------|--------------|
| reg E4(7) | [1998] 4 865 |
|-----------|--------------|

### Transfer of Undertakings (Protection of Employment) Regulations 1981

|               |              |
|---------------|--------------|
| regs 5, 8, 12 | [1998] 4 609 |
|---------------|--------------|

## M - ORDERS

### Excise Duties (Personal Reliefs) Order 1992

|       |              |
|-------|--------------|
| art 3 | [1998] 3 229 |
| art 5 | [1998] 3 229 |

### High Court and County Courts Jurisdiction Order 1991

|          |             |
|----------|-------------|
| art 8(1) | [1998] 4 63 |
|----------|-------------|

### Insolvency Fees Order 1986

|                 |              |
|-----------------|--------------|
| arts 8(1), 9(b) | [1998] 4 764 |
|-----------------|--------------|

### United States of America (Extradition) Order 1976

[1998] 1 264

## N - EUROPEAN COMMUNITIES LEGISLATION

### Treaties

#### EC Treaty

|               |                                           |
|---------------|-------------------------------------------|
| art 5         | [1998] EC 155, 585                        |
| art 6         | [1998] EC 238                             |
| art 30        | [1998] EC 673                             |
| art 36        | [1998] EC 302, 673                        |
| art 48        | [1998] EC 97, 366, 434, 452, 826          |
| art 49        | [1998] EC 366                             |
| art 50        | [1998] EC 366                             |
| art 51        | [1998] EC 366                             |
| art 52        | [1998] EC 585                             |
| art 56        | [1998] EC 585                             |
| art 58        | [1998] EC 585                             |
| art 59        | [1998] EC 673                             |
| art 60        | [1998] EC 673                             |
| art 85(1)(2)  | [1998] 4 468                              |
| art 92(1)     | [1998] EC 857                             |
| art 119       | [1998] 1 528, [1998] EC 38, 193, 722, 879 |
| art 168a      | [1998] EC 481                             |
| art 173       | [1998] EC 545, 620                        |
| art 175       | [1998] EC 918                             |
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Scheme of management. *See* **Ecclesiastical law** (Cemetery—Municipal cemetery).

## CHAMBERS

### Chancery Division—

Judgment in chambers. *See* **Practice** (Chancery Division—Chambers proceedings—Judgment).

### Queen's Bench Division—

Practice. *See* **Practice** (Chambers proceedings—Queen's Bench Division).

## CHANCERY DIVISION

### Practice—

Generally. *See* **Practice** (Chancery Division).

## CHARITY

### Cy-près doctrine—

#### Occasion for applying property cy-près—

Original purposes of charitable gift—Original purposes ceasing to provide suitable and effective method of using property—Religious sect—Allegations of misconduct by successor causing schism in sect—Minority group believing allegations and asserting successor losing right to succession and leadership of sect—Application for administration of scheme—Whether on schism original purpose ceasing to provide suitable and effective method of using property, regard being had to spirit of gift—Charities Act 1993, s 13(1). **Varsani v Jesani** [1998] 3 273, CA.

### Proceedings—

#### Parties—

Permissible parties—Person interested in charity—National Trust taking decision to ban deer-hunting with hounds on its land—Members of hunts and tenant farmers bringing charity proceedings against National Trust—Whether plaintiffs persons 'interested in the charity'—Whether trustees' decision-making flawed—Charities Act 1993, s 33(1). **Scott v National Trust for Places of Historic Interest or Natural Beauty** [1998] 2 705, Ch D.



## CHARTERPARTY

Time charterparty. *See* **Shipping** (Time charterparty).

## CHILD

Family proceedings. *See* **Family proceedings**.

Gross indecency with child. *See* **Criminal law** (Gross indecency—Child).

Indecent photograph of—

Obscene publication. *See* **Criminal law** (Obscene publications—Indecent photographs of children).

Name—

Change of surname. *See* **Minor** (Change of surname).

Negligence—

Foreseeable harm. *See* **Negligence** (Duty to take care—Foreseeable harm—Child).

Occupier's liability. *See* **Occupier's liability**.

Surname—

Change of surname. *See* **Minor** (Change of surname).

## CHILDREN AND YOUNG PERSONS

Detention—

Adult prison—

Home Secretary committing female young offender to adult prison pending allocation to young offender institution—Whether policy of committing young offenders to prison pending allocation lawful—Criminal Justice Act 1982, s 1C(1)(2). **R v Accrington Youth Court, ex p Flood** [1998] 2 313, QBD.

Punishment of grave crimes—

Guidelines on appropriate sentences for grave crimes committed by juveniles—Children and Young Persons Act 1933, s 53(2)(3)—Criminal Justice Act 1982, s 1B. **R v A M** [1998] 1 874, CA.

## CHOSE IN ACTION

Declaration of trust. *See* **Trust and trustee** (Creation of trust—Declaration of trust—Chose in action).

## CHURCH

Generally. *See* **Ecclesiastical law**.

## COMMERCIAL COURT

Practice—

Setting down for trial. *See* **Practice** (Admiralty and Commercial Registry—Setting down for trial).

## COMMITTAL

Extradition. *See* **Extradition** (Committal).

Proceedings—

Generally. *See* **Criminal law** (Committal).

Trial—

Committal for trial—

Crown Court. *See* **Crown Court** (Committal to Crown Court for trial).

## COMMON MARKET

*See* **European Community**.

## COMPANY

Administration order—

Discharge of order—

Creditors' nominees to replace administrators as liquidators—Whether court having jurisdiction to give directions to future liquidators. **Re Powerstore (Trading) Ltd, Re Homepower Stores Ltd** [1998] 1 121, Ch D.

Effect—

Requirement of leave to commence proceedings against company—Claim in respect of proceeds of sale of shares in subsidiary companies—Applicants claiming administrators holding proceeds of sale on remedial constructive trust—Whether applicants should be granted leave to bring action—Insolvency Act 1986, s 11(3). **Re Polly Peck International plc (in administration) (No 2), Marangos Hotel Co Ltd v Stone** [1998] 3 812, CA.

Capital—

Indirect taxes on raising capital—

European Community. *See* **European Community** (Companies—Indirect taxes on raising capital).

Compulsory winding up—

Examination of officer of company etc—

Inquiry into company's dealings—Production of documents—Production of documents by third party—Discretion of court to order production—Production of documents sought by liquidators—Requirements of liquidators to be balanced against possible oppression to third party—Whether court had power to treat winding-up order as nullity—Whether court should make order requiring production of documents situated in foreign jurisdiction—Insolvency Act 1986, s 236. **Re Mid East Trading Ltd, Lehman Bros Inc v Phillips** [1998] 1 577, CA.

Corporate personality—

Lifting corporate veil—

Whether court should do so. **Yukong Line Ltd of Korea v Rendsburg Investments Corp of Liberia (No 2)** [1998] 4 82, QBD.

Costs—

Security for costs—

Generally. *See* **Costs** (Security for costs—Company).

Director—

Disqualification—

Director unfit to be concerned in management of a company—Period of disqualification—Correct approach in determining appropriate period of disqualification—Matters to be taken into account—Company Directors Disqualification Act 1986, ss 6, 17. **Re Westmid Packing Services Ltd, Secretary of State for Trade and Industry v Griffiths** [1998] 2 124, CA.

## COMPANY (cont)

### Director (cont)—

#### Duty—

Fiduciary duty—Breach of fiduciary duty—Insolvent company—Transfer of assets— Whether breach of fiduciary duty actionable at suit of creditor. **Yukong Line Ltd of Korea v Rendsburg Investments Corp of Liberia (No 2)** [1998] 4 82, QBD.

#### Liability—

Tort—Tort committed by company—Franchisor company giving negligent advice to franchisees—Franchisees entering into franchise agreement in reliance on advice and subsequently suffering financial loss—Franchisees having no personal dealings with managing director of company—Managing director playing prominent part in production of advice—Company subsequently wound up—Whether managing director personally liable to franchisees on basis that he had assumed personal responsibility for advice. **Williams v Natural Life Health Foods Ltd** [1998] 2 577, HL.

### European Community—

Generally. *See* **European Community** (Companies).

### Examination of officer—

#### Compulsory winding up—

Generally. *See* **Compulsory winding up**—Examination of officer of company etc, *ante*.

Voluntary winding up. *See* **Voluntary winding up**—Examination of officer of company etc, *post*.

### Minority shareholder—

#### Personal action—

Action by 50% shareholder against director for misappropriating company assets—Whether personal action by shareholder against director misconceived. **Stein v Blake** [1998] 1 724, CA.

### Oversea company—

#### Service on overseas company—

Service of writ at London branch of foreign bank—Whether proceedings in respect of carrying on of business of London branch—Whether process validly served on London branch where conduct which gave rise to action arose partly from carrying on of bank's business in London but also partly from bank's business elsewhere—Whether service at London branch valid—Companies Act 1985, s 694A. **Saab v Saudi American Bank** [1998] 4 382, QBD.

### Preferential payments—

Winding up. *See* **Winding up**—Preferential payments, *post*.

### Security for costs—

Generally. *See* **Costs** (Security for costs—Company).

### Service of writ on company—

Overseas company. *See* **Overseas company**—Service on overseas company, *ante*.

### Tort committed by company—

Liability of director. *See* **Director**—Liability—Tort, *ante*.

### Voluntary winding up—

#### Examination of officer of company etc—

Inquiry into company's dealings—Production of documents—Documents produced following service of notice by Bank of England—Production of documents sought by liquidator—Statutory prohibition on disclosure of information received relating to business or affairs of any person without consent of that person—Discretion of court to order production—Whether court precluded by statutory prohibition from ordering production—Whether court should order production of redacted documents—Insolvency Act 1986, s 236—Banking Act 1987, s 82. **Re Galileo Group Ltd, Elles v Hambros Bank Ltd (Bank of England intervening)** [1998] 1 545, Ch D.

Preferential payments. *See* **Winding up**—Preferential payments, *post*.

### Winding up—

Compulsory winding up. *See* **Compulsory winding up**, *ante*.

#### Preferential payments—

Voluntary winding up—Whether court having jurisdiction to direct that in case of voluntary liquidation creditors who would be preferential creditors in case of compulsory liquidation should enjoy like status in voluntary liquidation—Insolvency Act 1986, ss 14(3), 18(1)(3). **Re Powerstore (Trading) Ltd, Re Homepower Stores Ltd** [1998] 1 121, Ch D.

Voluntary winding up. *See* **Voluntary winding up**, *ante*.

## COMPENSATION

### Business premises—

Disturbance. *See* **Landlord and tenant** (Business premises—Compensation for disturbance).

### Compulsory purchase—

Generally. *See* **Compulsory purchase** (Compensation).

Investors compensation scheme. *See* **Investment business** (Investors Compensation Scheme).

### Nuclear installation—

#### Damage—

Liability of licensee to pay compensation. *See* **Nuclear installation** (Licensee—Liability to pay compensation).

## COMPETITION

European Community rules. *See* **European Community** (Rules on competition).

## COMPULSORY PURCHASE

### Compensation—

#### Certificate of alternative development—

Decision as to grant of planning permission—Relevant date—Matters to be discounted—Land Compensation Act 1961, ss 17(4), 22(2). **Fletcher Estates (Harlescott) Ltd v Secretary of State for the Environment, Newell (exors of J v Longmore (decd)) v Secretary of State for the Environment** [1998] 4 838, CA.

## COMPULSORY PURCHASE (cont)

### Compensation (cont)—

#### Injurious affection—

Land—Land or interest therein injuriously affected by execution of works—Right to compensation—Execution of works for period of five years by local authority in exercise of statutory powers on land near hotel—Whether owner of hotel entitled to compensation for injurious affection—Whether compensation payable where no direct interference to land or right appurtenant to land—Whether compensation payable in respect of all injurious affection attributable to execution of works—Whether compensation payable where interference only temporary—Compulsory Purchase Act 1965, s 10. **Wildtree Hotels Ltd v Harrow London BC** [1998] 3 638, CA.

Land—Land or interest therein injuriously affected by execution of works—Right to compensation—Execution of works in pursuance of statutory powers on land near property—Works causing disturbance and physical damage to property—Whether compensation payable—Compulsory Purchase Act 1965, s 10. **Clift v Welsh Office** [1998] 4 852, CA.

#### Reinstatement basis—

Interest—Acquired land holding two churches owned by mission—Council agreeing amount to be paid in compensation to mission for building of single replacement church—Mission moving into new church—Whether interest payable on compensation—Whether interest payable from date of entry until date of actual reinstatement or date amount of compensation agreed—Land Compensation Act 1961, s 5, r (5)—Compulsory Purchase Act 1965, s 11. **Halstead v Manchester City Council** [1998] 1 33, CA.

#### Limitation of action—

Action to recover sums recoverable by virtue of statute—

Accrual of cause of action. *See* **Limitation of action** (Accrual of cause of action—Action to recover sums recoverable by virtue of statute—Compulsory purchase).

## COMPULSORY WINDING UP

Company. *See* **Company** (Compulsory winding up).

## CONFIDENTIAL INFORMATION

### Arbitration—

Evidence. *See* **Arbitration** (Evidence—Confidentiality).

Banker/client relationship. *See* **Bank** (Banker/client relationship—Duty of bank—Duty of confidentiality).

Breach of confidence. *See* **Equity** (Breach of confidence).

### Family proceedings—

Care proceedings. *See* **Family proceedings** (Confidential information in care proceedings).

### Injunction against disclosure of information—

#### Police interview—

Statement made to police during interview under caution—Statement disclosed during criminal trial—Contents of statement sought to be included in television broadcast and book—Plaintiff applying for injunction to restrain disclosure of statement in broadcast and book—Whether plaintiff entitled to injunction to restrain disclosure. **Bunn v BBC** [1998] 3 552, Ch D.

### Witness—

#### Foreign tribunal—

Examination of witness in relation to matters pending before foreign tribunal. *See* **Evidence** (Foreign tribunal—Examination of witness in relation to matters pending before foreign tribunal—Confidentiality).

## CONFISCATION ORDER

Drug trafficking offence. *See* **Drugs** (Drug trafficking—Confiscation order).

## CONFLICT OF LAWS

### Contract—

#### Proper law of contract—

Bank—English bank holding account for Sierra Leone company owned by Sierra Leone government—Company's articles of association providing that board of directors to consist of eight members appointed by 'the Government of Sierra Leone'—Mandate completed authorising four signatories to sign payment requests on company's behalf—Coups subsequently taking place, new board appointed by junta and authority of signatories purportedly revoked—Whether mandate determined—Whether law governing contract English law—Contracts (Applicable Law) Act 1990, Sch 1, art 4. **Sierra Leone Telecommunications Co Ltd v Barclays Bank plc** [1998] 2 821, QBD.

### Foreign government—

#### Recognition—

Articles of association of Sierra Leone company owned by Sierra Leone government providing that board of directors to consist of eight members appointed by 'the Government of Sierra Leone'—Company holding bank account with English bank and mandate completed authorising four signatories to sign payment requests on company's behalf—Coups subsequently taking place, new board appointed by junta and authority of signatories purportedly revoked—Whether junta 'the Government of Sierra Leone'—Whether authority of signatories validly revoked. **Sierra Leone Telecommunications Co Ltd v Barclays Bank plc** [1998] 2 821, QBD.

### Foreign proceedings—

#### Restraint of foreign proceedings—

Circumstances in which court will restrain prosecution of foreign proceedings—Plaintiffs seeking injunction from English court to restrain proceedings in Texas by English defendants arising out of aircraft crash in India—Proceedings commenced also in India—Injunction issued by Indian court ineffective as defendants not within Indian jurisdiction—Whether English court could grant injunction. **Airbus Industrie GIE v Patel** [1998] 2 257, HL.

### Jurisdiction—

#### Challenge to jurisdiction—

Claim by insurer—Insurer domiciled in Lithuania repudiating liability to English company—Insured claiming against insurer—Insurer serving defence and counterclaim—Insurer seeking to join further parties as defendants to counterclaim—Whether court having jurisdiction over counterclaim—Civil Jurisdiction and Judgments Act 1982, Sch 1, art 11. **Jordan Grand Prix Ltd v Baltic Insurance Group** [1998] 3 418, CA.



## CONFLICT OF LAWS (cont)

### Jurisdiction (cont)—

#### Challenge to jurisdiction (cont)—

Fraud—Plaintiffs claiming jurisdiction of English court over defendant domiciled in Switzerland—Plaintiff applying to join additional defendants domiciled in Belgium to proceedings—First defendant visiting England but prevented from returning to Switzerland by conditions of bail following arrest—Whether time for establishing jurisdiction for joinder of further defendants being date of issue of writ or date of joinder—Whether first defendant domiciled in England at relevant date—Civil Jurisdiction and Judgments Act 1982, s 41(3)(a)(b), Sch 1, art 6(1). **Petrotrade Inc v Smith** [1998] 2 346, QBD.

Fraud—Plaintiffs claiming jurisdiction of English court over defendants domiciled in Switzerland—Plaintiffs claiming entitlement to sue on basis that one of the defendants was domiciled in England—Standard of proof to be applied to question whether defendant domiciled in England—Whether date for determining domicile was date of issue or date of service of the proceedings—Whether defendant domiciled in England required to be served first—Civil Jurisdiction and Judgments Act 1982, Sch 3C, art 6. **Canada Trust Co v Stolzenberg (No 2)** [1998] 1 318, CA.

Negligent misstatement—Harmful event—English plaintiff supplying goods to buyer holding account with Swiss Bank in Switzerland—Bank providing plaintiff with payment order in respect of invoiced price of goods—Bank cashier in Switzerland stating, in course of telephone conversation with plaintiff in England, that payment order a guarantee of payment—Plaintiff thereafter releasing to buyer goods held in Switzerland and Italy—Buyer proving to have insufficient funds in account and bank refusing to honour payment—Plaintiff commencing proceedings in England against bank for negligent misstatement—Bank challenging jurisdiction—Whether harmful event occurring in England—Whether English court having jurisdiction to try action in tort—Civil Jurisdiction and Judgments Act 1982, Sch 3C, art 5(3). **Domicrest Ltd v Swiss Bank Corp** [1998] 3 577, QBD.

Passing off—Plaintiffs bringing action in England for passing off—Trade mark infringement proceedings pending in Germany between defendant and plaintiffs' German licensee—Whether English court having jurisdiction to hear and determine passing off action—Place where harmful event occurred—Whether proceedings involving same parties and same cause of action—Whether German court seised of a related action—Civil Jurisdiction and Judgments Act 1982, Sch 1, arts 2, 5(3), 21, 22. **Mecklermedia Corp v D C Congress GmbH** [1998] 1 148, Ch D.

Reinsurance contract—Defendant insurance company domiciled in Greece reinsured by English reinsurers—Reinsurers issuing proceedings in England seeking declaration that they were discharged from liability under contract—Reinsurers claiming entitlement to sue in matters relating to contract in courts for place of performance of obligation in question—Whether English courts having jurisdiction over dispute—Obligation in question—Civil Jurisdiction and Judgments Act 1982, Sch 1, art 5(1). **AIG Group (UK) Ltd v The Ethniki** [1998] 4 301, QBD.

#### Civil and commercial matters—

Concept of 'consumer'—Exclusive jurisdiction clause—Plaintiff concluding franchise contract but never trading under it—Contract conferring jurisdiction for any dispute on Italian courts—Plaintiff attempting to have whole contract declared void by German court—German court declining jurisdiction—Whether plaintiff a 'consumer'—Whether exclusive jurisdiction clause operative where validity of whole contract disputed—Convention on Jurisdiction and the Enforcement of Judgments in Civil and Commercial Matters 1968, art 13, 14, 17. **Benincasa v Dentalkit Srl (Case C-269/95)** [1998] EC 135, ECJ.

#### Exclusive jurisdiction—

Defendant insurance company domiciled in Greece reinsured by English reinsurers—Reinsurance contract providing 'wording as original'—Primary policy conferring jurisdiction over trial of disputes on courts of Athens—Whether jurisdiction clause incorporated into reinsurance contract—Whether Greek courts having exclusive jurisdiction over claim by reinsurers—Civil Jurisdiction and Judgments Act 1982, Sch 1, art 17. **AIG Group (UK) Ltd v The Ethniki** [1998] 4 301, QBD.

Plaintiff employed by defendant English shipowners under contract containing an exclusive Hamburg jurisdiction clause—Plaintiff commencing proceedings in England against defendant for damages for personal injury—Defendant serving third party notice out of jurisdiction on third party domiciled in Germany—Whether English courts having jurisdiction over third party proceedings—Whether courts seised of original action having jurisdiction over courts conferred with jurisdiction by agreement—Civil Jurisdiction and Judgments Act 1982, Sch 1, arts 6(2), 17. **Hough v P & O Containers Ltd (Blohm + Voss Holding AG and ors, third parties)** [1998] 2 978, QBD.

#### Passing off—

Challenge to jurisdiction. *See* Jurisdiction—Challenge to jurisdiction—Passing off, *ante*.

## CONSPIRACY

### Conspiracy to defraud—

Search warrant. *See* Police (Search warrant—Conspiracy to defraud).

### Tort—

Generally. *See* Tort (Conspiracy).

## CONSTABLE

Arrest without warrant by. *See* Arrest (Arrest without warrant).

## CONTEMPT OF COURT

### Publications concerning disciplinary proceedings—

Professional Conduct Committee of the General Medical Council—

Whether Professional Conduct Committee a court—Contempt of Court Act 1981, ss 2(2), 19—General Medical Council Preliminary Proceedings Committee and Professional Conduct Committee (Procedure) Rules 1988, rr 27, 28. **General Medical Council v BBC** [1998] 3 426, CA.

### Publications concerning legal proceedings—

Disclosure of person's name in connection with proceedings—

Disclosure of solicitor's name—Firm of solicitors applying for judicial review of decision by Legal Aid Board to suspend franchise—Whether firm entitled to anonymity—Contempt of Court Act 1981, s 11. **R v Legal Aid Board, ex p Kaim Todner (a firm)** [1998] 3 541, CA.



## CONTEMPT OF COURT (cont)

Publications concerning legal proceedings (cont)—

Substantial risk of prejudice to fair trial—

Criminal trial in progress—Newspaper article published about offences in question—Criminal proceedings subsequently stayed—Whether fact of stay meaning publication creating substantial risk of serious prejudice to trial—Contempt of Court Act 1981, ss 1, 2. **A-G v Birmingham Post and Mail Ltd** [1998] 4 49, QBD.

Refusal to disclose source of information—

Journalist—

Disclosure necessary in interests of justice—Company employee wrongfully disclosing company's draft accounts to journalist—Defendant publishing article based on draft accounts—Plaintiff seeking delivery up of documents held by defendant in order to identify source of leaked material—Whether court should order delivery up of documents—Whether necessary in interests of justice for identity of source to be revealed—Contempt of Court Act 1981, s 10. **Camelot Group plc v Centaur Communications Ltd** [1998] 1 251, CA.

Disclosure necessary in interests of justice—Defendant publishing article referring to meetings between plaintiff and former solicitors—Plaintiff obtaining injunction restraining further publication—Plaintiff seeking order for disclosure of source of information—Whether plaintiff entitled to order for disclosure of source—Whether disclosure necessary in interests of justice—Whether legal professional privilege preponderating in balancing exercise—Contempt of Court Act 1981, s 10. **Saunders v Punch Ltd (t/a Liberty Publishing)** [1998] 1 234, Ch D.

## CONTINGENCY FEE

Counsel. *See* **Counsel** (Fees—Contingency fee).

Solicitor. *See* **Solicitor** (Costs—Contingency fee).

## CONTRACT

Bond—

Performance bond—

Plaintiffs providing performance bond in relation to contract for supply and delivery of goods to defendant—Bond liable to be forfeited on any breach of contract—Plaintiffs subsequently breaching contract and defendant making call on bond—Defendant not suffering loss to extent of value of bond—Whether plaintiff entitled to recover overpayment. **Cargill International SA v Bangladesh Sugar and Food Industries Corp** [1998] 2 406, CA.

Building contract—

Arbitration—

Stay of court proceedings. *See* **Arbitration** (Stay of court proceedings—Grant of stay—Building contract).

Conflict of laws. *See* **Conflict of laws** (Contract).

County court jurisdiction—

Action founded in contract or tort. *See* **County court** (Jurisdiction—Action founded in contract or tort).

Illegality—

Enforceability of contract—

Contract with firm of solicitors for payment of share of fees in consideration for introduction of clients—Alleged contract prohibited by rules having effect of subordinate legislation—Plaintiff ignorant of prohibition—Claim for sums outstanding under contract—Whether contract enforceable—Whether alternative claim in restitution available—Solicitors Act 1974, s 31—Solicitors' Practice Rules 1990, r 7. **Mohamed v Alaga & Co (a firm)** [1998] 2 720, Ch D.

Interest rate swap agreement—

Restitution. *See* **Restitution**—Interest rate swap agreement, *post*.

Performance—

Bond. *See* **Bond**—Performance bond, *ante*.

Proper law—

Generally. *See* **Conflict of laws** (Contract—Proper law of contract).

Quasi-contract—

Restitution. *See* **Restitution** (Quasi-contract).

Reinsurance. *See* **Insurance** (Reinsurance).

Rescission—

Shipbuilding contract—

Default in payment. *See* **Shipbuilding contract**—Default in payment—Rescission, *post*.

Restitution—

Interest rate swap agreement—

Bank entering into interest rate swap agreement with local authority—Agreement ultra vires the local authority and void ab initio—Interest rate swap agreement fully performed according to its terms—Bank claiming repayment of net amount received by local authority under agreement—Whether bank entitled to recover payments—Whether full performance of void contract precluding claim for recovery—Whether distinction to be drawn between open swap and closed swap agreements. **Guinness Mahon & Co Ltd v Kensington and Chelsea Royal London BC** [1998] 2 272, CA.

Quasi-contract. *See* **Restitution** (Quasi-contract).

Unjust enrichment—

Retrospective overruling of previous authority—Interest rate swap agreements—Bank seeking recovery of payments made to local authorities under swap agreements—Retrospective effect of overruling previous authority—Whether bank having remedy in restitution—Whether rule precluding restitutionary remedy for money paid under mistake of law should be maintained—Whether claim time-barred—Limitation Act 1980, s 32(1)(c). **Kleinwort Benson Ltd v Lincoln City Council** [1998] 4 513, HL.

Sale of goods—

Generally. *See* **Sale of goods**.

Shipbuilding contract—

Default in payment—

Rescission—Shipbuilders entering into agreements to design, build and complete six vessels—Price payable in instalments—Notice given of keel laying for hulls 1 and 2—Instalments not paid—Shipbuilders rescinding contracts—Whether shipbuilders entitled to recover keel laying instalments. **Stocznia Gdanska SA v Latvian Shipping Co** [1998] 1 883, HL.

Time charterparty. *See* **Shipping** (Time charterparty).

## CONVERSION

Possession—

Right to immediate possession—

Plaintiff suing for conversion of share certificates—Legal title to shares having been passed to trustee by nominee agreement—Trustee, in breach of trust, pledging shares to third party—Pledgee exercising power of sale of shares—Whether plaintiff having title to sue pledgee in conversion. **MCC Proceeds Inc v Lehman Bros International (Europe)** [1998] 4 675, CA.

## CONVICTION

Appeal—

Generally. *See* **Criminal law** (Appeal).

## COPYRIGHT

False attribution of authorship—

Attribution—

Newspaper article—Article by journalist in form of diary, parodying published diaries of plaintiff—

Plaintiff seeking injunction restraining defendant from publishing work falsely attributed to him—

Whether article attributing authorship to plaintiff—Whether plaintiff entitled to injunction—Copyright, Designs and Patents Act 1988, s 84. **Clark v Associated Newspapers Ltd** [1998] 1 959, Ch D.

Infringement—

Damages—

Additional damages—Statutory provision for additional damages—Claim for account of profits and additional damages—Whether claim can be made for both account of profits and additional damages where no claim made for compensatory damages—Copyright, Designs and Patents Act 1988, ss 96(2), 97(2). **Redrow Homes Ltd v Bett Bros plc** [1998] 1 385, HL.

## CORPORATION

Corporate personality. *See* **Company** (Corporate personality).

## CORPORATION TAX

Capital allowances. *See* **Capital allowances**.

European Community—

Discrimination on grounds of nationality. *See* **European Community** (Freedom of establishment—

Discrimination on grounds of nationality—Corporation tax).

## CORRESPONDENCE

Prisoner. *See* **Prison** (Letters—Prisoner's letters).

## COSTS

Arbitration—

Generally. *See* **Arbitration** (Costs).

Company—

Security for costs. *See* Security for costs—Company, *post*.

Criminal cases—

Generally. *See* **Criminal law** (Costs).

Defence costs—

Criminal cases—

Power to award out of central funds. *See* **Criminal law** (Costs—Power to award costs—Award out of central funds—Defence costs).

Insolvency proceedings—

Statutory demand—

Order for costs in favour of assisted person—Whether creating judgment debt. *See* **Insolvency** (Statutory demand—Debt—Costs).

Interest on costs—

Date from which interest payable—

Successful appeal—Backdating of interest on costs order to date of judgment in court below—Whether court having power to back date interest on costs order—RSC Ord 42, r 3(2). **Nykredit Mortgage Bank plc v Edward Erdman Group Ltd (No 2)** [1998] 1 305, HL.

Judicial review—

Costs of application for judicial review. *See* **Judicial review** (Costs of application).

Jurisdiction—

Review of taxation. *See* Taxation—Review of taxation—Jurisdiction, *post*.

Legal aid—

Order for costs. *See* **Legal aid** (Order for costs).

Litigant in person—

Taxation—

Review of taxation—Jurisdiction. *See* Taxation—Review of taxation—Jurisdiction—Litigant in person, *post*.

Order for costs—

Discretion—

Claim for professional medical negligence—Delayed diagnosis—Plaintiff's leg subsequently amputated following diagnosis of tumour in advanced condition—Separate trials on issues of liability and quantum—Judge finding that defendants negligent but that negligence not causative of amputation—Judge ordering defendants to pay all plaintiff's costs of action on ground they had failed to protect themselves by making a written offer accepting a specified proportion of liability—Whether judge right to do so—RSC Ord 33, r 4A. **Oksuzoglu v Kay** [1998] 2 361, CA.

Pre-emptive order—Plaintiffs entering into conditional fee agreements with legal advisers—Judge refusing to make order debarring defendants from seeking order for costs against plaintiffs' legal representatives personally—Whether judge right to do so. **Hodgson v Imperial Tobacco Ltd** [1998] 2 673, CA.

Legal aid cases. *See* **Legal aid** (Order for costs).

## COSTS (cont)

Order for costs (cont)—

Payment of costs by non-party—

Insurers' liability to indemnify defendant for accidental damage to material property limited to £1m—Defendant negligently setting plaintiffs' property alight—Insurers contesting plaintiffs' claim to defend their own interest—Plaintiffs awarded damages in excess of policy limit and obtaining order for costs against the insurers—Whether insurers liable to pay plaintiffs' costs—Supreme Court Act 1981, s 51(1). **T G A Chapman Ltd v Christopher** [1998] 2 873, CA.

Prosecution costs. *See* **Criminal law** (Costs—Prosecution costs).

Review of taxation. *See* **Taxation**—Review of taxation, *post*.

Security for costs—

Company—

Limited company as plaintiff—Company likely to be unable to pay costs of defendant if successful in his defence—Plaintiff paying money into court as security for defendant's costs—Plaintiff successful in action—Defendant appealing—Plaintiff seeking payment out of security—Defendant applying for stay—Whether court having power to order stay—Whether stay should be ordered—Companies Act 1985, s 726. **Stabilad Ltd v Stephens & Carter Ltd** [1998] 4 129, CA.

European Community. *See* **European Community** (Costs—Security for costs).

Solicitor—

Generally. *See* **Solicitor** (Costs).

Taxation—

Counsel's fees—

Whether agreement by solicitor of counsel's fees having to take place before commencement of taxation proceedings—Whether agreement by solicitor of counsel's fees having to be in form of written agreement—RSC Ord 62, App 2, Pt I, para 2(1)(a). **Spath Holme Ltd v Chairman of the Greater Manchester and Lancashire Rent Assessment Committee, Curtis v Chairman of the London Rent Assessment Committee** [1998] 3 909, QBD.

Practice—

Bill of costs—Allegations of misconduct, neglect, delay or wasted costs—Guidelines for issuing summonses under RSC Ord 62, r 28. **Practice Direction** [1998] 1 383, SC Taxing Office.

Review of taxation—

Jurisdiction—Litigant in person—Disqualification proceedings in respect of company directors—Official Receiver acting without solicitor for part of proceedings—Taxing master disallowing costs for work done by Official Receiver—Whether allowance for costs can be made to Official Receiver—Whether Official Receiver a 'litigant in person'—Litigants in Person (Costs and Expenses) Act 1975, s 1(1). **Re Minotaur Data Systems Ltd, Official Receiver v Brunt** [1998] 4 500, Ch D.

Solicitor—

Bill of costs for contentious business—Discovery—Plaintiff funded by union—Solicitors instructed by union submitting bill of costs—Defendants objecting to claim and requesting evidence from plaintiff to establish that union solicitors were not in breach of indemnity principle—Whether district judge entitled to order discovery of relevant material. **Bailey v IBC Vehicles Ltd** [1998] 3 570, CA.

Contentious business—Bill of costs. *See* **Taxation**—Solicitor—Bill of costs for contentious business, *ante*.

Contentious business—Level of fees allowable—Plaintiffs instructing London solicitors in cases proceeding in Brighton and Sheffield—Whether reasonable for plaintiff to instruct solicitors outside area of court in which case heard—Whether costs recoverable at London or provincial rates—Whether costs reasonably incurred—RSC Ord 62, r 12(1). **Truscott v Truscott, Wraith v Sheffield Forgemasters Ltd** [1998] 1 82, CA.

Contentious business agreement—Statutory provision limiting costs recoverable to amount payable to solicitor under agreement—Whether statutory provision to be applied on an item by item basis—Whether statutory provision providing a global cap, so that receiving party may recover hourly expense rates exceeding those agreed—Solicitors Act 1974, s 60(3). **General of Berne Insurance Co v Jardine Reinsurance Management Ltd** [1998] 2 301, CA.

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#### Nonsuit—

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#### Payment into court—

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Guidance—Automatic directions prescribing timetable for action—Ouster of automatic directions—Effect of application for order that automatic directions timetable be disapplied where action proceeding alongside others regarding similar subject matter—Effect of application for declaration that action has been automatically struck out—CCR Ord 17, r 11. **Cockerill v Tambrands Ltd, Jackson v Pinchbeck, Prolaw Ltd v Adams (t/a Nigel Adams & Co)** [1998] 3 97, CA.

Striking out default action after 12 months where admission delivered but no judgment entered—Action for unliquidated damages—Whether court able to strike out action on expiry of 12-month period where defendant not admitting both liability and quantum—CCR Ord 9, r 10. **Limb v Union Jack Removals Ltd (in liq)** [1998] 2 513, CA.

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Arrest of bailed defendant for absconding or breaking bail conditions—24-hour time limit for bringing person arrested before justice of the peace—Applicant arrested for breaking bail conditions and taken to magistrates’ court within 24 hours of arrest—Applicant brought before justices after expiration of 24-hour period—Applicant applying for writ of habeas corpus—Whether justices having jurisdiction to remand in custody applicant brought before them out of time—Bail Act 1976, s 7. **R v Governor of Glen Parva Young Offender Institution, ex p G (a minor)** [1998] 2 295, QBD.

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#### Loss of earning capacity—

Partners entering into arrangement with their wives in relation to profits—Arrangement terminable at will and agreed with Inland Revenue—Partner bringing action for personal injury—Whether arrangement basis for measuring loss of earning capacity. **Ward v Newalls Insulation Co Ltd** [1998] 2 690, CA.

#### Loss of future earnings—

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#### Nervous shock—

Defendants' breach of duty causing plaintiff to be involved in events leading to accident—Plaintiff not personally or directly involved at time of accident—Plaintiff suffering shock and depression when subsequently learning of colleague's death believing that he was in part responsible for accident—Whether plaintiff direct or primary victim and entitled to damages for nervous shock caused by defendants' breach of duty of care. **Hunter v British Coal Corp** [1998] 2 97, CA.

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European Community. *See* **European Community** (Equality of treatment of men and women).

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#### Discrimination against a man—

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Generally. See **Discrimination against a woman, post**.

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### Discrimination against a man—

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### Duty of master—

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### Equality of treatment of men and women—

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#### Equal pay for equal work—

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### Redundancy—

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### Repetitive strain injury—

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### Fiduciary duty—

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Defendant formerly employed by Crown as member of Secret Intelligence Service and becoming agent for Soviet Union—Defendant writing and publishing autobiography based on information acquired in capacity as SIS officer—Book published without licence or permission of Crown—Whether defendant in breach of continuing fiduciary duty owed to Crown—Whether Crown beneficially entitled to copyright in book and future profits derived from publication. **A-G v Blake (Jonathan Cape Ltd, third party)** [1998] 1 833, CA.

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Husband and wife—Husband obtaining funds from plaintiff bank to purchase property jointly with wife and to clear personal debts—Loan secured by way of charge over property—Bank bringing action against husband and wife to enforce charge—Whether charge should be set aside as against wife for undue influence—Whether transaction manifestly disadvantageous to wife—Whether wife entitled to have charge set aside unconditionally. **Dunbar Bank plc v Nadeem** [1998] 3 876, CA.

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#### Expectation of inheriting estate—

Plaintiff working for defendant and defendant indicating intention to leave bulk of his estate to plaintiff—Whether representations relied on amounting to irrevocable promise by defendant as to how his estate would be disposed of—Whether plaintiff entitled to estate. **Gillett v Holt** [1998] 3 917, Ch D.



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#### Cause of action estoppel—

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## EUROPEAN COMMUNITY

### Action for annulment—

#### Abuse of procedure—

Partial refusal of application for access to Council documents concerning Justice and Home affairs matters—Applicant seeking annulment of refusal—Applicant publishing Council's defence on internet—Whether publication prejudicial to proper course of procedure. **Svenska Journalistförbundet (supported by Sweden) v EU Council (supported by France)** (Case T-174/95) [1998] EC 545, CFI.

#### Admissibility—

Applicant requesting access to EU Council documents concerning European Police Office—Application partially refused—Applicant seeking annulment of refusal—Whether rules on access to documents applying to Justice and Home Affairs matters—Whether court having jurisdiction to review questions of access to such documents—Council Decision (EC) 93/731—Treaty on European Union, Title VI—EC Treaty, art 173. **Svenska Journalistförbundet (supported by Sweden) v EU Council (supported by France)** (Case T-174/95) [1998] EC 545, CFI.

#### Locus standi—

Commission authorising expenditure on project to build power stations—Authorities and builders failing to carry out environmental impact assessments—Nature conservancy foundation bringing action for annulment of Commission's authorisation of further finance—Whether foundation having locus standi—EC Treaty, art 173. **Stichting Greenpeace Council (Greenpeace International) v European Commission** (Case C-321/95 P) [1998] EC 620, ECJ.

#### Admissibility—

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Private sector television company complaining to European Commission that grants to public television companies contravening state aid rules—Commission failing to adopt decision concerning complaints—Applicant bringing action for declaration of failure to act—Whether private undertaking having standing—EC Treaty, art 175. **Gestevisión Telecinco SA v European Commission (France intervening)** (Case T-95/96) [1998] EC 918, CFI.

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### Community institutions—

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#### Indirect taxes on raising capital—

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### Consumer protection—

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#### Packaging—

Labelling of foodstuffs—Plaintiff marketing food product in Community—Labels bearing addresses of manufacturer and packager established outside Community—Whether labels should also bear details of at least one trader established within Community—Council Directive (EEC) 79/112, art 3. **Provincia Autonoma di Trento v Dega di Depretto Gino Snc** (Case C-83/96) [1998] EC 252, ECJ.

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#### Security for costs—

Discrimination on grounds of nationality—Shareholder in Austrian company having British and American nationality and resident in Florida—Shareholder seeking injunction restraining Austrian company from transferring certain shares without agreement of shareholders' general meeting—Shareholder ordered by Austrian court to lodge security for costs on grounds of non-Austrian nationality—Austria acceding to Community during proceedings—Temporal and legal scope of relevant EC Treaty provision—EC Treaty, art 6. **Saldanha v Hiross Holding AG** (Case C-122/96) [1998] EC 238, ECJ.

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### Employment—

#### Continuity of employment—

Transfer of trade, undertaking or business—Transfer of undertaking being wound up by court—Employee dismissed shortly before transfer and not taken on by transferee—Whether 'legal transfer' for purposes of Community directive—Whether transferor and transferee having power to dismiss employees for economic, technical or organisational reasons—Council Directive (EEC) 77/187, arts 1, 4. **Jules Dethier Équipement SA v Dassy** (Case C-319/94) [1998] EC 346, ECJ.

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#### Protection of employees on employer's insolvency—

Plaintiff residing, working and employed in Denmark—Employer established in United Kingdom—Employer becoming insolvent—Plaintiff claiming outstanding salary, expenses and commission from Danish guarantee institution—Danish institution refusing claim on grounds that UK guarantee institution responsible—Which guarantee institution responsible for settling claim—Council Directive (EEC) 80/987, arts 1, 2, 3. **Danmarks Aktive Handelsrejsende, acting on behalf of Mosbæk v Lønmodtagernes Garantifond** (Case C-117/96) [1998] EC 112, ECJ.

### Environment—

#### Waste—

Whether concept of 'waste' excluding substances forming integral part of industrial production process—Council Directive (EEC) 75/442, art 1(a). **Inter-Environnement Wallonie ASBL v Région Wallonie** (Case C-129/96) [1998] EC 155, ECJ.

### Equality of treatment of men and women—

#### Access to employment—

Discrimination on grounds of sex—Plaintiff bringing successful sex discrimination action against employer—Employer subsequently refusing to supply reference for plaintiff—Whether member states obliged under Community law to provide judicial protection against such refusal—Sex Discrimination Act 1975—Council Directive (EEC) 76/207, art 6. **Coote v Granada Hospitality Ltd** (Case C-185/97) [1998] EC 865, ECJ.

#### Access to employment and working conditions—

Maternity scheme—Benefits conditional on agreement to return to employer—Failure to return entailing partial repayment of maternity pay—Maternity leave precluding simultaneous sick leave—Accrual during maternity leave of annual leave entitlement limited—Accrual of pension rights during maternity leave conditional on entitlement to maternity pay from employer—Whether constituting discrimination on grounds of sex—Council Directives (EEC) 75/117, 76/207 and 92/85—EC Treaty, art 119. **Boyle v Equal Opportunities Commission** (Case C-411/96) [1998] EC 879, ECJ.

#### Employment and working conditions—

Employment contract making 26 consecutive weeks' absence through illness a ground for dismissal—Employee suffering pregnancy-related illnesses rendering her unable to work for over 26 weeks duly dismissed—Whether dismissal constituting discrimination on grounds of sex—Council Directive (EEC) 76/207, arts 2(1), 5(1). **Brown v Rentokil Ltd** (Case C-394/96) [1998] EC 791, ECJ.

#### Equal pay for equal work—

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Pension—Occupational pension schemes excluding part-time workers from membership in contravention of Community law—National legislation requiring claims to be brought within six months of termination of employment and restricting entitlement to retrospective remuneration—Whether legislation compatible with Community law—Equal Pay Act 1970, s 2(4)(5)—EC Treaty, art 119. **Preston v Wolverhampton Healthcare NHS Trust, Preston v Wolverhampton Healthcare NHS Trust, Fletcher v Midland Bank plc** [1998] 1 528, HL.

Pension—Voluntary contracted-out occupational pension scheme—Exclusion of part-time workers from status conferring entitlement to additional pension benefits—Female part-time workers claiming indirect discrimination on grounds of sex—National rules restricting successful claims for retroactive award of benefit to two years' benefits—Date from which additional benefits to be calculated—Whether restriction compatible with Community law—Occupational Pension Schemes (Equal Access to Membership) Regulations (Northern Ireland) 1976, reg 12—EC Treaty, art 119, Protocol No 2. **Magorrian v Eastern Health and Social Services Board** (Case C-246/96) [1998] EC 38, ECJ.

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Equality of treatment of men and women (cont)—

Equal working conditions—

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Civil service job-sharing scheme—Women applicants job-sharing for two years—Applicants later taking up full-time employment—Employer moving applicants down scale of annual pay increases on grounds that two years' job share equivalent to one year's full-time employment—Whether application of criterion of service calculated by length of time actually worked constituting discrimination—Council Directive (EEC) 75/117—EC Treaty, art 119. **Hill v Revenue Comrs** (Case C-243/95) [1998] EC 722, ECJ.

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Fishing vessels—Registration—United Kingdom legislation restricting registration to vessels owned by qualified British citizens or companies—Registration provisions incompatible with Community law—Liability of state to pay compensation—Liability of state to pay exemplary damages. **R v Secretary of State for Transport, ex p Factortame Ltd (Note)** [1998] 1 736, QBD.

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Freedom of movement—

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Spectacles—National rules making reimbursement of medical expenses incurred in another member state conditional on prior authorisation—Luxembourg plaintiff purchasing spectacles in Belgium without prior approval—Plaintiff's application for reimbursement refused—Whether prior authorisation compatible with Community provisions on free movement—EC Treaty, arts 30, 36. **Decker v Caisse de Maladie des Employés Privés** (Case C-120/95), **Kohl v Union des Caisses de Maladie** (Case C-158/96) [1998] EC 673, ECJ.

Technical standards—Netherlands failing to notify technical regulations applying to breathalyser equipment to Commission—Whether Community provisions applicable to technical regulations ancillary to criminal law—Whether failure to notify rendering evidence from breathalysers unusable in criminal proceedings—Council Directive (EEC) 83/189, arts 8, 9. **Criminal proceedings against Lemmens** (Case C-226/97) [1998] EC 604, ECJ.

Trade mark exhaustion—Trademarked goods sold by Austrian trade mark proprietor to buyer outside EEA with instruction only to sell in Bulgaria and former Soviet Union—Goods obtained in Bulgaria by third party and sold in Austria without trade mark proprietor's consent—Whether release onto non-EEA market rendering trade mark exhausted within EEA—Council Directive (EEC) 89/104, arts 5, 7. **Silhouette International Schmied GmbH & Co KG v Hartlauer Handelsgesellschaft mbH** (Case C-355/96) [1998] EC 769, ECJ.

Services—

Dental care—National rules making reimbursement of medical expenses incurred in another member state conditional on prior authorisation—Authorisation for plaintiff's daughter to receive treatment from an orthodontist in Germany refused on ground that proposed treatment not urgent and could be provided in Luxembourg—Whether prior authorisation compatible with Community provisions on free movement—Council Regulation (EEC) 1408/71, art 22—EC Treaty, arts 59, 60. **Decker v Caisse de Maladie des Employés Privés** (Case C-120/95), **Kohl v Union des Caisses de Maladie** (Case C-158/96) [1998] EC 673, ECJ.

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Gaming—

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Exemption. *See* Value added tax—Exemptions—Betting, gaming and lotteries, *post*.

Jurisdiction—

Lis alibi pendens—

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National legislation—

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Equality of treatment of men and women. *See* Equality of treatment of men and women—Equal pay for equal work—Pension, *ante*.



## EUROPEAN COMMUNITY (cont)

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Dispute in main proceedings resolved after reference made—Whether Court of Justice obliged to give ruling—EC Treaty, art 177. **Djabali v Caisse d'Allocations Familiales de l'Essonne (Case C-314/96)** [1998] EC 426, ECJ.

### Rules on competition—

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Beer supply agreements—Public house—Lease tying house to brewery—Beer tie null and void—Lease acquired by different brewery—Whether assignee of lease able to enforce beer tie—EC Treaty, art 85(1)(2). **Passmore v Morland plc** [1998] 4 468, Ch D.

### Set-off—

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### State liability—

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Charges on raising or increasing capital levied unlawfully over long period of time without Danish authorities or persons charged being aware of unlawfulness—National law allowing dismissal of claims for recovery of charges in such circumstances—Whether compatible with Community law. **Fantask A/S v Industriministeriet (Erhvervsministeriet) (Case C-188/95)** [1998] EC 1, ECJ.

### Trade marks—

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Leasing or letting of immovable property—Exclusion from exemption of accommodation provided in hotel sector and sectors with a similar function—German law excluding short-term accommodation from exemption—Criterion of sixth months' duration used to determine whether short-term—Whether criterion appropriate—Whether letting agreement determinative of duration—Council Directive (EEC) 77/388, art 13B(b)(1). **Blasi v Finanzamt München I (Case C-346/95)** [1998] EC 211, ECJ.

### Input tax—

Deductibility of input tax—Supplies intended but not ultimately used for taxable transactions for reasons beyond taxable person's control—Whether right to deduct arising on supplies—Whether right could be withdrawn retroactively by reason of non-use for taxable transactions—Council Directive (EEC) 77/388, art 17(2). **Belgium v Ghent Coal Terminal NV (Case C-37/95)** [1998] EC 223, ECJ.

Disallowance of input tax—Whether national measures for protective retention of balance of value added tax claimed by taxpayer precluded by Community law—Effect of principle of proportionality—Council Directive (EEC) 77/388, art 18(4). **Garage Molenheide BVBA v Belgium (Joined cases C-286/94, C-340/95, C-401/95 and C-47/96)** [1998] EC 61, ECJ.

### Invoice—

Document serving as invoice—Credit note issued by recipient of supply—Credit note drawn up with agreement of supplier—Supplier able to contest amount of value added tax mentioned—Whether credit note capable of being regarded as document serving as invoice—Council Directive (EEC) 77/388, art 22(3)(c). **Finanzamt Osnabrück-Land v Langhorst (Case C-141/96)** [1998] EC 178, ECJ.

### Liability for tax—

Person who mentioned value added tax on invoice—Credit note issued by recipient of supply serving as invoice—Whether supplier to be regarded as person who mentioned tax on invoice—Whether supplier liable to pay value added tax shown if incorrect credit note not contested—Council Directive (EEC) 77/388, art 21(1)(c). **Finanzamt Osnabrück-Land v Langhorst (Case C-141/96)** [1998] EC 178, ECJ.

### Right to deduct—

French rules providing tax not deductible on certain forms of transport capable of being tool of trade—Commission bringing action for failure by member state to fulfil obligations under relevant Community legislation—Whether Community provision allowing national exclusions which predated Community legislation applying to non-business expenditure only—Council Directive (EEC) 77/388, art 17(2) and (6). **European Commission v France (United Kingdom intervening) (Case C-43/96)** [1998] EC 951, ECJ.

## EUROPEAN COMMUNITY (cont)

### Value added tax (cont)—

#### Supply of goods—

Defendants buying, selling and manufacturing counterfeit perfumes without being registered for value added tax—Defendants convicted of fraudulently evading value added tax—Whether supply of counterfeit perfume products a taxable supply of goods—Council Directive (EEC) 77/388, art 2. **Criminal proceedings against Goodwin (Case C-3/97)** [1998] EC 500, ECJ.

#### Supply of goods or services—

Employer providing free transport to workplace for employees—Employer also commissioning one employee to provide additional transport using own private vehicle—Tax authorities charging employer value added tax on transport—Whether supply of services for consideration—Whether transport services effected for purposes other than those of business—Council Directive (EEC) 77/388, arts 2(1), 6(2). **Julius Fillibeck Söhne GmbH & Co KG v Finanzamt Neustadt (Case C-258/95)** [1998] EC 466, ECJ.

Supply—Unlawful gaming—Whether supply of services within scope of Community law—Council Directive (EEC) 77/388, art 2(1). **Fischer v Finanzamt Donaueschingen (Case C-283/95)** [1998] EC 567, ECJ.

Supply for a consideration—Consideration—Direct link between supply and consideration—Legal relationship between provider and recipient of service—Reciprocal performance—Foreign exchange transactions—Bank not charging transaction fees or commission—Whether transactions constituting supply of goods or services effected for consideration—Council Directive (EEC) 77/388, art 2(1). **Customs and Excise Comrs v First National Bank of Chicago (Case C-172/96)** [1998] EC 744, ECJ.

Value of supply. *See* Value added tax—Value of supply of goods or services, *post*.

#### Value of supply of goods or services—

Determination of value—Foreign exchange transactions—Bank not charging transaction fees or commission—Whether value of consideration full value of currency received in exchange for that supplied by bank—Whether consideration amount that bank could actually apply to its own use—Whether consideration net result of transaction over given period—Council Directive (EEC) 77/388, art 11A(1)(a). **Customs and Excise Comrs v First National Bank of Chicago (Case C-172/96)** [1998] EC 744, ECJ.

Waste. *See* Environment—Waste, *ante*.

### Workers—

#### Freedom of movement—

Direct taxation—Applicants married and resident in France where married couples' income tax payable on joint income—German wife working in Germany and having dual nationality—Franco-German convention on avoidance of double taxation applying criteria of, *inter alia*, nationality to determine tax jurisdiction—Convention making wife's income taxable in Germany but entitling her to tax credit in France—French tax credit less than tax actually paid in Germany—Whether constituting discrimination of grounds of nationality—EC Treaty, art 48. **Gilly v Directeur des Services Fiscaux du Bas-Rhin (Case C-336/96)** [1998] EC 826, ECJ.

Discrimination on grounds of nationality—Collective wage agreement applicable to public sector employees—Promotion on grounds of seniority conditional on time spent working under agreement—Professional experience acquired in another member state excluded when calculating seniority—Plaintiff's practice in Greece not considered when calculating salary classification—Compatibility with Community provisions—Council Regulation (EEC) 1612/68, art 7—EC Treaty, art 48. **Schöningh-Kougebetopoulou v Freie und Hansestadt Hamburg (Case C-15/96)** [1998] EC 97, ECJ.

Discrimination on grounds of nationality—Employer prevented from trading in Austria on grounds that manager not resident there—Whether employer could rely on employee's right to free movement—Compatibility with Community law of residence requirement—EC Treaty, art 48. **Clean Car Autoservice GmbH v Landeshauptmann von Wien (Case C-350/96)** [1998] EC 434, ECJ.

Right of residence—Appellants nationals of member states of the European Community residing in United Kingdom and receiving income support—Appellants failing to secure employment—Home Secretary sending letter to appellants stating that they were not lawfully resident in United Kingdom under Community law and should make arrangements to leave—Whether appellants 'required by the Secretary of State to leave the United Kingdom'—Whether appellants entitled to income support—Income Support (General) Regulations 1987, reg 21(3)(h). **Secretary of State for Social Security v Remilien, Chief Adjudication Officer v Wolke** [1998] 1 129, HL.

Social security—Discrimination on grounds of nationality—Greek national claiming early retirement benefit in Germany—Benefits refused on grounds that claimant's age not proved by recently rectified Greek birth certificate—Whether Community law requiring national authorities to recognise certificates and analogous civil status documents issued by other member states—EC Treaty, art 48. **Dafeke v Landesversicherungsanstalt Württemberg (Case C-336/94)** [1998] EC 452, ECJ.

Social security—Invalidity benefits—Entitlement to benefit—Reference period during which contributions to be paid—Extension of reference period—Effect of periods in another member state—Whether periods of unemployment spent in one member state extending reference period in another—Council Regulation (EEC) 1408/71, art 9a—Council Regulation (EEC) 574/72, art 15—EC treaty, arts 48–51. **Iurlaro v Istituto Nazionale della Previdenza Sociale (INPS) (Case C-322/95)** [1998] EC 366, ECJ.

## EVIDENCE

Arbitration. *See* **Arbitration** (Evidence).

### Boundary—

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### Committal—

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### Extradition—

Committal. *See* **Extradition** (Committal—Evidence).

## EVIDENCE (cont)

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Confidentiality—Confidential information between bank and customer—Injunction obtained by customers under English jurisdiction restraining disclosure of documents—Subpoena issued under US jurisdiction for discovery of documents relating to bank—Compliance under English law involving breach of duties of confidentiality and possible breach of injunction—Public interest in preserving confidentiality in documents—Whether outweighed by public interest in co-operating with foreign court. **Pharoon v Bank of Credit and Commerce International SA (in liq) (Price Waterhouse (a firm) intervening), Price Waterhouse (a firm) v Bank of Credit and Commerce International SA (in liq)** [1998] 4 455, Ch D.

Evidence for purpose of civil proceedings—Letter of request for oral examination—Whether letter of request in nature of 'fishing' exercise—Whether terms of request too wide—Whether terms of request oppressive—Evidence (Proceedings in Other Jurisdictions) Act 1975, s 2. **First American Corp v Sheikh Zayed Al-Nahyan, Clifford v First American Corp** [1998] 4 439, CA.

### Highway—

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## EXCISE

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## EXECUTION

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#### Seizure of goods—

Sheriff taking walking possession—Sheriff unable to gain re-entry to debtor's premises to take actual possession—Debtor not intending to forcibly exclude sheriff from premises—Whether sheriff entitled to use force to gain re-entry to premises. **Khazanchi v Faircharm Investments Ltd, McLeod v Butterwick** [1998] 2 901, CA.

## EXPERT

### Witness—

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## EXTRADITION

### Committal—

#### Evidence—

Evidence to be considered by magistrate—Magistrate refusing to allow defendant to give or call evidence at committal proceedings—Whether magistrate wrong to do so—Whether amending legislation having abolished defendant's right to give or call evidence—Extradition Act 1989, Sch 1, para 6—Criminal Justice and Public Order Act 1994—Criminal Procedure and Investigations Act 1996. **Re Gross** [1998] 3 624, QBD.

### Disguised extradition—

#### Deportation to United Kingdom—

Applicants alleging they were brought within jurisdiction by improper collusion between foreign authorities and British authorities. **R v Staines Magistrates' Court, ex p Westfallen, R v Staines Magistrates' Court, ex p Soper, R v Swindon Magistrates' Court, ex p Nangle** [1998] 4 210, QBD.

### Extradition crime—

#### Definition—

United States government seeking extradition of fugitives from England—Orders to proceed specifying offences of conspiracy to defraud and conspiracy to commit offences under Theft Act 1968—Whether offences extradition crimes—United States of America (Extradition) Order 1976—Extradition Act 1870, Sch 1—Extradition Act 1989, ss 1(3), 2, Sch 1, para 20. **R v Secretary of State for the Home Dept, ex p Gilmore, R v Secretary of State for the Home Dept, ex p Ogun** [1998] 1 264, QBD.

### Fugitive offender—

#### Persons liable to be returned—

Person accused of extradition crime—Offences committed in Germany—Warrant for appellant's arrest issued by German judge—Whether appellant a person 'accused' of extraditable offences—Extradition Act 1989, s 1(1). **Re Ismail** [1998] 3 1007, HL.

### Immunity from extradition—

#### Former head of state—

Immunity for acts performed in exercise of functions as head of state—Former head of state accused of crimes of torture and hostage-taking while in office—Whether torture and hostage-taking a function of a head of state—Whether former head of state entitled to claim immunity from extradition for crimes of torture and hostage-taking—State Immunity Act 1978, ss 1, 14(1), 20—Taking of Hostages Act 1982, s 1(1)—Criminal Justice Act 1988, s 134(1). **R v Bow Street Metropolitan Stipendiary Magistrate, ex p Pinochet Ugarte (Amnesty International intervening)** [1998] 4 897, HL.

### Surrender—

#### Re-extradition to third state—

Applicant extradited to United Kingdom on charges of alleged fraud—Applicant acquitted but promptly rearrested in anticipation of request for extradition to Australia—Secretary of State ordering applicant's return to Australia—Whether Secretary of State's decision to order applicant's return to third state lawful—Consent to re-extradition—European Convention on Extradition 1990, Sch 1, arts 14, 15. **R v Secretary of State for the Home Department, ex p Johnson** [1998] 4 635, QBD.

## FALSE ACCOUNTING

*See* **Criminal law** (False accounting).

## FALSE IMPRISONMENT

### Prisoner serving sentence—

#### Calculation of prisoner's release date—

Prison governor calculating release date by method laid down by courts—Prisoner obtaining judicial review of governor's decision as to release date—Divisional Court overruling previous authorities as to method of calculation—Whether prisoner entitled to damages for false imprisonment. **R v Governor of Brockhill Prison, ex p Evans (No 2)** [1998] 4 993, CA.



## **FAMILY PROCEEDINGS**

Care proceedings—

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Confidential information in care proceedings—

Disclosure to police—

Social work assessment report containing admission by mother that she had shaken child—Police seeking leave of court for disclosure of report and associated documents—Whether judge right in refusing leave—Whether leave required for disclosure of notes and drafts of report—Whether leave required for disclosure of interview notes and notes of social workers' meeting—Administration of Justice Act 1960, s 12—Family Proceedings Rules 1991, r 4.23. **Re W (minors) (social worker: disclosure)** [1998] 2 801, CA.

Injunction. *See* **Injunction** (Family proceedings).

## **FAX**

Service by fax. *See* **Practice** (Service—Service by fax).

## **FEE**

Counsel—

Generally. *See* **Counsel** (Fees).

Taxation of costs. *See* **Costs** (Taxation—Counsel's fees).

Solicitor—

Contingency fee. *See* **Solicitor** (Costs—Contingency fee).

## **FIDUCIARY DUTY**

Company director—

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Generally. *See* **Equity** (Fiduciary duty).

## **FIERI FACIAS**

Writ. *See* **Execution** (Writ of fi fa).

## **FINANCIAL PROVISION**

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Nullity proceedings. *See* **Nullity** (Financial provision).

## **FINANCIAL SERVICES**

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## **FISH**

Fishing rights—

European Community. *See* **European Community** (Fishing rights).

## **FISHING RIGHTS**

European Community. *See* **European Community** (Fishing rights).

## **FISHING VESSEL**

Registration—

European Community. *See* **European Community** (Fishing rights—Common fishing policy—Fishing vessels—Registration).

## **FOOD AND DRUGS**

Food safety—

Offences—

Obstruction of environmental health officers acting in the execution of their duties—Powers of investigation of environmental health officers when outside own authority's area—Whether officers entitled to inspect relevant production process and records in order to counter defence of due diligence—Whether privilege against self-incrimination conferred on company representative—Food Safety Act 1990, ss 32(1), 33(1)(3). **Walkers Snack Foods Ltd v Coventry City Council** [1998] 3 163, QBD.

Packaging—

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## **FOREIGN GOVERNMENT**

Recognition—

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## **FOREIGN PROCEEDINGS**

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## **FOREIGN TRIBUNAL**

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## **FOREIGNER**

Extradition. *See* **Extradition**.

Immigration. *See* **Immigration**.

## **FORMER HEAD OF STATE**

Immunity from extradition. *See* **Extradition** (Immunity from extradition—Former head of state).

## **FRAUD**

Conflict of laws—

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## **FRAUD (cont)**

- Conspiracy—  
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- Serious and complex cases—  
Crown Court—  
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## **FREEDOM OF MOVEMENT**

- European Community—  
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- Workers. *See* **European Community** (Workers—Freedom of movement).

## **FUGITIVE OFFENDER**

- Extradition. *See* **Extradition**.

## **FUTURE EARNINGS**

- Loss—  
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Personal injuries cases. *See* **Damages** (Personal injury—Loss of future earnings).

## **GAMING**

- Amusements with prizes—  
Provision on premises in respect of which local authority permit obtained—  
Observance of statutory requirements—Statutory limit on value of prizes—Owner of amusement arcade allowing prizes to be combined to redeem larger prizes—Whether statutory limit contravened—  
Gaming Act 1968, ss 34(3), 38(6). **R v Burt & Adams Ltd** [1998] 2 417, HL.
- Value added tax—  
Exemption—  
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## **GENERAL MEDICAL COUNCIL**

- Professional Conduct Committee—  
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## **GRANT**

- Housing—  
Disabled facilities grant. *See* **Housing** (Disabled facilities grant).

## **GROSS INDECENCY**

- See* **Criminal law** (Gross indecency).

## **HABEAS CORPUS**

- Grounds for grant of writ of habeas corpus—  
Unlawful detention—  
Appellant admitted to mental health unit in hospital on informal basis and kept there—Appellant autistic with no ability to communicate—Whether appellant being detained—Whether appellant being detained unlawfully—Whether common law doctrine of necessity justifying detention—Mental Health Act 1983, s 131. **R v Bournewood Community and Mental Health NHS Trust, ex p L** [1998] 1 634, CA.
- Patient admitted to mental unit in hospital on informal basis and kept there—Patient autistic with no ability to communicate—Whether patient being detained—Whether patient being detained unlawfully—Whether common law doctrine of necessity justifying detention—Mental Health Act 1983, s 131. **R v Bournewood Community and Mental Health NHS Trust, ex p L (Secretary of State for Health intervening)** [1998] 3 289, HL.

## **HEAD OF STATE**

- Former head of state—  
Immunity from extradition. *See* **Extradition** (Immunity from extradition—Former head of state).

## **HEALTH**

- Health and safety at work. *See* **Health and safety at work**.
- Mental health. *See* **Mental health**.

## **HEALTH AND SAFETY AT WORK**

- Employer's duties—  
Duty to other persons—  
Duty to conduct undertaking in such a way as to ensure that persons not in his employment not exposed to risks to health and safety—Company engaged in installing, servicing and maintaining gas appliances—Fitters employed by company being negligent in carrying out work—Gas fittings exposing occupiers to risk to their health and safety—Scope of employer's statutory duty—Whether employer in breach of duty—Health and Safety at Work etc Act 1974, ss 3(1), 33(1). **R v Nelson Group Services (Maintenance) Ltd** [1998] 4 331, CA.
- Health and safety inspector—  
Negligence—  
Duty to take care. *See* **Negligence** (Duty to take care—Existence of duty—Health and safety inspector).

## **HEALTH AUTHORITY**

- Negligence—  
Duty to take care—  
Existence of duty. *See* **Negligence** (Duty to take care—Existence of duty—Health authority).

## **HEDGE**

- Boundary. *See* **Boundary** (Hedge).

## HIGH COURT

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Enforcement. *See* **County court** (Judgment or order—Enforcement—Enforcement in High Court).

Practice—

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## HIGHWAY

Dedication—

Evidence—

Definitive map—Public right of way—Landowner executing revocable deed conferring on members of public statutory rights of access for air and exercise to tracks across common land—Existence of deed not publicised—Successor in title erecting barriers obstructing public's use of tracks—Whether deed evidence of landowner's intention not to dedicate land as highway—Whether public using tracks as of right—Whether statutory rights of access including right of access on horseback—Law of Property Act 1925, s 193—Highways Act 1980, s 31. **R v Secretary of State for the Environment, ex p Billson** [1998] 2 587, QBD.

Definitive map—Public right of way—Riverbank footpath—Private landowner refusing access—Application to local authority for order modifying definitive map of area to show public footpath—Local authority refusing order—Secretary of State dismissing appeal against refusal of order on conflicting documentary evidence alone—Whether Secretary of State entitled to do so—Wildlife and Countryside Act 1981, s 53(3)(c)(i)(5), Sch 14, para 4(2). **R v Secretary of State for Wales, ex p Emery** [1998] 4 367, CA.

Maintenance—

Scope of duty to maintain—

Pavement rendered dangerous by ice—Council informed of forthcoming icy conditions—Precautions taken in respect of roads but not pavements—Plaintiff injured by slipping on ice on pavement—Whether duty to maintain including duty to remove ice—Whether council justified in giving priority to roads—Whether council in breach of duty to maintain—Highways Act 1980, s 41. **Cross v Kirklees Metropolitan BC** [1998] 1 564, CA.

## HOMELESS PERSON

Housing. *See* **Housing** (Homeless person).

## HOMICIDE

Murder—

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## HOUSING

Disabled facilities grant—

Determination of application—

Sick and disabled occupant applying for disabled facilities grant—Whether local housing authority entitled to take into account its financial resources when determining whether to grant application—Housing Grants, Construction and Regeneration Act 1996, s 23. **R v Birmingham City Council, ex p Mohammed** [1998] 3 788, QBD.

Grant—

Disabled facilities grant. *See* Disabled facilities grant, *ante*.

Homeless person—

Person becoming homeless intentionally—

Inquiry into cases of possible homelessness or threatened homelessness—Local authority discharging statutory duties in relation to one application for accommodation—Local authority receiving second application from same applicant—Whether local authority bound to go through whole statutory inquiry procedure and provide interim accommodation—Housing Act 1985, s 62. **R v Harrow London Borough Council, ex p Fahia** [1998] 4 137, HL.

Local authority—

Housing revenue account—

Calculation of subsidy to be debited to housing revenue account—Change of accounting practice from cash basis to accrual basis—Whether prior year adjustment to be taken into account for purpose of calculating subsidy in changeover year—Local Government and Housing Act 1989, Pt VI. **R v Secretary of State for the Environment, ex p Camden London BC** [1998] 1 937, HL.

Local authority houses—

Tenant's right to buy—

Enforcement of right—Injunction—Tenant exercising right to buy—Local authority accepting tenant had right to buy but subsequently issuing proceedings for possession because of tenant's alleged nuisance—Tenant counterclaiming for order that council convey property to him and making interlocutory application for injunction—Whether court having discretion to refuse injunction—Whether court having discretion to adjourn tenant's application to come on with local authority's possession claim—Housing Act 1985, Pt V—CCR Ord 13, r 3(1). **Bristol City Council v Lovell** [1998] 1 775, HL.

Service charge—Conveyance containing covenant by tenant to contribute to costs incurred by local authority for benefit of locality in upkeep of landscaping—Whether covenant void for uncertainty—Whether covenant unenforceable on ground of unreasonableness—Whether tenant able to challenge reasonableness of covenant after execution of conveyance—Housing Act 1985, ss 127, 167, 168, Sch 6, para 5. **Sheffield City Council v Jackson** [1998] 3 260, CA.

## HUSBAND AND WIFE

Domestic violence—

Injunction. *See* **Injunction** (Husband and wife—Domestic violence).

Financial provision—

Divorce. *See* **Divorce** (Financial provision).

Injunction—

Generally. *See* **Injunction** (Husband and wife).



## HUSBAND AND WIFE (cont)

Undue influence—

Presumption of undue influence. *See* **Equity** (Undue influence—Presumption of undue influence—Husband and wife).

## ILLEGALITY

Contract. *See* **Contract** (Illegality).

## IMMIGRATION

Leave to enter—

Refugee—

Asylum—Deportation back to third country—Requirement that Secretary of State be satisfied that government of third country would not send asylum seeker back to another country otherwise than in accordance with Convention relating to the Status of Refugees 1951—Test to be applied—Sufficient if no real risk—Asylum and Immigration Act 1996, s 2(2). **R v Secretary of State for the Home Dept, ex p Canbolat** [1998] 1 161, CA.

Asylum—Fear of persecution held by applicant for refugee status—Civil war in country of origin—Home Office refusing to grant refugee status—Applicant not having current well-founded fear of persecution if returned to country of origin—Whether sufficient that applicant originally fled country or remained abroad for well-founded fear of persecution—Meaning of ‘refugee’ in context of civil war—Convention and Protocol relating to the Status of Refugees, art 1A(2). **Adan v Secretary of State for the Home Dept** [1998] 2 453, HL.

Asylum—Fear of persecution held by applicants for refugee status—Pakistani women falsely accused of adultery—Well-founded fear of persecution if returned to Pakistan—Whether women members of ‘a particular social group’—Convention and Protocol relating to the Status of Refugees, art 1A(2). **R v Immigration Appeal Tribunal, ex p Shah, Islam v Secretary of State for the Home Department** [1998] 4 30, CA.

## IMMUNITY

Barrister—

Negligence. *See* **Counsel** (Negligence—Immunity).

Extradition—

Immunity from extradition. *See* **Extradition** (Immunity from extradition).

Witness—

Immunity from civil action. *See* **Action** (Immunity from suit—Witness).

## IMPORTATION

Goods—

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## IMPRISONMENT

False imprisonment. *See* **False imprisonment**.

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Life imprisonment. *See* **Sentence** (Life imprisonment).

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## INCOME SUPPORT

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## INCOME TAX

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Corporation tax—

European Community—

Discrimination on grounds of nationality. *See* **European Community** (Freedom of establishment—Discrimination on grounds of nationality—Corporation tax).

## INDECENCY

Gross indecency. *See* **Criminal law** (Gross indecency).

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## INDEMNITY

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Time charterparty. *See* **Shipping** (Time charterparty—Employment and indemnity clause).

Professional indemnity—

Insurance. *See* **Insurance** (Liability insurance—Professional indemnity insurance).

## INDUSTRIAL BUILDING

Income tax—

Capital allowances. *See* **Capital allowances** (Industrial building or structure).

## INFORMATION (CRIMINAL PROCEDURE)

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## INFORMATION (KNOWLEDGE)

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Care proceedings—

Family proceedings court. *See* **Family proceedings** (Confidential information in care proceedings).

Generally. *See* **Confidential information**.

Disclosure—

Confidential information—

Generally. *See* **Confidential information**.

Contempt of court—

Refusal by journalist to disclose source of information. *See* **Contempt of court** (Refusal to disclose source of information—Journalist).

## INFORMATION (KNOWLEDGE) (cont)

- Disclosure (cont)—
  - Police, by. *See* **Police** (Disclosure of information).

## INJUNCTION

- Confidential information—
  - Power of court to restrain disclosure—
    - Generally. *See* **Confidential information** (Injunction against disclosure of information).
- Defamation cases. *See* **Libel and slander** (Injunction).
- Family proceedings—
  - Interim care order or emergency protection order—
    - Attachment of power of arrest to exclusion requirement—Procedure—Announcement of terms of order in open court—Arrest for breach of order—Procedure following arrest—Children Act 1989, ss 38A(5), 44A(5). **Practice Direction** [1998] 2 928, Fam D.
- Housing—
  - Local authority housing—
    - Enforcement of tenant's right to buy. *See* **Housing** (Local authority houses—Tenant's right to buy—Enforcement of right—Injunction).
- Husband and wife—
  - Domestic violence—
    - Attachment of power of arrest to occupation or non-molestation order—Procedure—Announcement of terms of order in open court—Arrest for breach of order—Procedure following arrest—Family Law Act 1996, Pt IV. **Practice Direction** [1998] 2 927, Fam D.
- Interlocutory—
  - Defamation cases. *See* **Libel and slander** (Injunction—Interlocutory).
  - Pending proceedings—
    - Judicial review—Application for judicial review of grant of approval for herbicide—Application for stay of approval pending determination of proceedings and decision of European Court—Principles to be applied—Whether interim relief should be granted. **R v Ministry of Agriculture Fisheries and Food, ex p Monsanto plc (Clayton Plant Protection Ltd intervening)** [1998] 4 321, QBD.
  - Preservation of proceeds of crime—
    - Extent of court's powers to grant injunction in favour of the Crown—Defendant benefiting from criminal offence but unlikely that he would be brought to trial—Proceedings instituted by Attorney General, as guardian of public interest, in civil courts in aid of criminal law—Whether court's jurisdiction extended to enforcing and upholding public policy of ensuring that a criminal did not retain profit directly derived from commission of his crime. **A-G v Blake (Jonathan Cape Ltd, third party)** [1998] 1 833, CA.
- Jurisdiction—
  - Declaration. *See* **Declaration** (Jurisdiction—Injunction).
- Mareva injunction—
  - Generally. *See* **Practice** (Pre-trial or post-judgment relief—Mareva injunction).

## INJURIOUS AFFECTION

- Compulsory purchase of land—
  - Compensation. *See* **Compulsory purchase** (Compensation—Injurious affection).

## INJURY

- Damages—
  - Generally. *See* **Damages** (Personal injury).

## INSOLVENCY

- Administration order—
  - Company—
    - Generally. *See* **Company** (Administration order).
- Bankruptcy—
  - Generally. *See* **Bankruptcy**.
- Petition—
  - Conditions for presentation—
    - Debtor's petition—Order requiring payment of deposit as security prior to issue of petition—Applicant impecunious and unable to afford deposit—Whether order ultra vires legislation conferring powers on Lord Chancellor to provide for payment of deposit—Whether order abrogating applicant's constitutional right of access to courts—Insolvency Act 1986, ss 272, 415—Insolvency Fees Order 1986, arts 8(1), 9(b)—Insolvency Rules 1986, r 6.42(1). **R v Lord Chancellor, ex p Lightfoot** [1998] 4 764, QBD.
- Statutory demand—
  - Debt—
    - Costs—Order for costs made in favour of assisted person—Whether court order creating judgment debt. **Re a debtor (No 68/SD/97)** [1998] 4 779, Ch D.
- Voluntary arrangement—
  - Solvent co-debtors—
    - Effect of arrangement on solvent co-debtors—Plaintiff shareholders sureties under lease taken by company—Plaintiffs selling shares and purchasers agreeing to indemnify them against claims under lease—Plaintiffs meeting claims under lease and seeking indemnity from purchasers—Individual purchaser entering into voluntary arrangement with creditors—Plaintiffs given notice of creditors' meeting—Whether arrangement extinguishing liability of solvent co-debtors to plaintiffs—Whether arrangement releasing co-debtors from debt by operation of law. **Johnson v Davies** [1998] 2 649, CA.

## INSPECTOR

- Health and safety inspector—
  - Negligence—
    - Duty to take care. *See* **Negligence** (Duty to take care—Existence of duty—Health and safety inspector).

## INSURANCE

### Jurisdiction—

Conflict of laws. *See* **Conflict of laws** (Jurisdiction—Challenge to jurisdiction—Claim by insurer).

### Liability insurance—

#### Professional indemnity insurance—

Solicitor—Law Society's group scheme—Plaintiff partner in firm of solicitors insured under Solicitors' Indemnity Fund for £1m—Partner signing top-up insurance policy for £1m with defendant insurers—Policy providing that defendants would not seek to avoid, repudiate or rescind insurance on any ground whatsoever—Partner failing to disclose circumstances relating to potential claim against firm—Judgment entered against firm in sum of £2m and plaintiff seeking indemnity from defendants—Defendants denying liability on ground of breach of warranty—Whether plaintiff entitled to indemnity. **Kumar v AGF Insurance Ltd** [1998] 4 788, QBD.

### Marine insurance—

Generally. *See* **Marine insurance**.

### Motor insurance—

Generally. *See* **Motor insurance**.

Professional indemnity insurance. *See* Liability insurance—Professional indemnity insurance, *ante*.

### Reinsurance—

#### Contract for excess of loss reinsurance—

Liability under contracts of reinsurance—Insurers settling claim by original insured—Whether insurers entitled to claim indemnity in respect of settlement under reinsurance policies. **Commercial Union Assurance Co plc v NRG Victory Reinsurance Ltd, Skandia International Corp v NRG Victory Reinsurance Ltd** [1998] 2 434, CA.

#### Jurisdiction—

Conflict of laws. *See* **Conflict of laws** (Jurisdiction—Challenge to jurisdiction—Reinsurance contract).

#### Proportional reinsurance—

Costs incurred in investigating, settling or defending claims by insured—Whether insurer able to recover proportion of such costs from reinsurer—Whether term to that effect to be implied into contract of reinsurance. **Baker v Black Sea and Baltic General Insurance Co Ltd (Equitas Reinsurance Ltd intervening)** [1998] 2 833, HL.

### Transfer of long-term insurance business—

Sanction by court of scheme for transfer of long-term insurance business—

Principles to be applied in exercise of court's discretion—Insurance Companies Act 1982, Sch 2C. **Re Hill Samuel Life Assurance Ltd, Re Ambassador Life Co Ltd** [1998] 3 176, Ch D.

## INTELLECTUAL PROPERTY

Copyright. *See* **Copyright**.

### Patent—

Generally. *See* **Patent**.

## INTEREST

### Compensation—

#### Compulsory purchase—

Reinstatement basis. *See* **Compulsory purchase** (Compensation—Reinstatement basis—Interest).

### Costs—

Generally. *See* **Costs** (Interest on costs).

### Damages—

#### Jurisdiction to include interest in award of damages—

Part payment of damages by third party prior to commencement of proceedings—Whether court having jurisdiction to award interest on such part payment—Whether court having jurisdiction to award interest on any sum other than sum for which judgment entered—Supreme Court Act 1981, s 35A(1). **I M Properties plc v Cape & Dalglish (a firm)** [1998] 3 203, CA.

#### Negligence—

Valuer—Valuer negligently valuing properties for loans made by bank—Properties substantially overvalued—Valuer liable for bank's losses flowing from overvaluation—Date when cause of action arose—Date from which interest to run—Whether interest payable on damages ordered to be repaid. **Nykredit Mortgage Bank plc v Edward Erdman Group Ltd (No 2)** [1998] 1 305, HL.

### Interest rate swap agreement—

Restitution. *See* **Contract** (Restitution—Interest rate swap agreement).

## INTERIM PAYMENTS ORDER

### Practice—

Generally. *See* **Practice** (Pre-trial or post-judgment relief—Interim payment).

## INTERLOCUTORY INJUNCTION

Generally. *See* **Injunction** (Interlocutory).

Mareva injunction. *See* **Practice** (Pre-trial or post-judgment relief—Mareva injunction).

## INTERNET

### Internet domain name—

#### Passing off—

Trade name. *See* **Passing off** (Trade name—Internet domain names).

Registration as trade mark. *See* **Trade mark** (Infringement—Name—Internet domain names—Registration of company trade marks as Internet domain names).

## INTESTACY

### Appropriation by personal representatives—

#### Surviving spouse—

Spouse as sole personal representative appropriating deceased's shares in unquoted company in satisfaction of her statutory legacy—Appropriation without consent of beneficiaries or authorisation by court—Whether appropriation valid—Administration of Estates Act 1925, s 41. **Kane v Radley-Kane** [1998] 3 753, Ch D.

## INTOXICATING LIQUOR

Driving offences in connection with. *See* **Road traffic**.



**INTOXICATING LIQUOR** (cont)  
Licensing. *See* **Licensing**.

**INVALIDITY BENEFIT**

European Community—

Workers—

Freedom of movement. *See* **European Community** (Workers—Freedom of movement—Social security—Invalidity benefits).

**INVESTMENT BUSINESS**

Authorisation—

Authorisation in other member state—

Danish company lawfully authorised under Danish legislation to carry on investment business in Denmark pending determination of application for authorisation—Managing director of company mistakenly believing that Danish authority entitled company to carry on investment business in United Kingdom—Whether managing director of company person knowingly concerned in contravening Act—Financial Services Act 1986, ss 3, 6(2). **Securities and Investments Board v Scandex Capital Management A/S** [1998] 1 514, CA.

Investors Compensation Scheme—

Assignment of action to scheme—

Interpretation of contractual document—Matrix of fact—Badly drafted document—Document to be interpreted to reflect parties' intention. **Investors Compensation Scheme Ltd v West Bromwich Building Society, Investors Compensation Scheme Ltd v Hopkin & Sons (a firm), Alford v West Bromwich Building Society, Armitage v West Bromwich Building Society** [1998] 1 98, HL.

Compensation—

Liability incurred by authorised persons in connection with investment business—Applicant making original investment in April 1986 prior to commencement of scheme—Broker persuading applicant to reinvest in 1991—Broker misappropriating funds and ceasing trading—Applicant claiming under compensation scheme—Whether claim in respect of 1991 reinvestment based on liability incurred prior to December 1986 threshold date for valid claims—Financial Services Act 1986, s 54—Financial Services (Compensation of Investors) Rules 1990, r 1.02.3. **R v Investors Compensation Scheme Ltd, ex p Taylor** [1998] 1 711, CA.

Restitution—

Interim payment—

Person found to have been knowingly concerned in carrying on investment business in United Kingdom in contravention of Act—Whether court having jurisdiction to order interim payment into court—Financial Services Act 1986, s 6(2). **Securities and Investments Board v Scandex Capital Management A/S** [1998] 1 514, CA.

**IRISH WARRANT**

Indorsement. *See* **Magistrates** (Indorsement of Irish warrant).

**JOINT TENANCY**

Determination—

Generally. *See* **Landlord and tenant** (Tenancy—Joint tenancy—Determination).

Notice of severance—

Service—

Joint tenant sending notice of severance to address of joint tenant—Notice delivered by ordinary first class post at address of joint tenant—Sender no longer desiring to sever tenancy and destroying notice—Whether joint tenancy severed—Whether notice validly served—Law of Property Act 1925, ss 36(2), 196(3). **Kinch v Bullard** [1998] 4 650, Ch D.

**JOURNALIST**

Prison visits. *See* **Prison** (Visits—Visits by journalists).

Refusal to disclose source of information—

Contempt of court. *See* **Contempt of court** (Refusal to disclose source of information).

**JUDGMENT**

Action on—

Limitation period. *See* **Limitation of action** (Action on judgment).

Chambers proceedings—

Chancery Division—

Status of judgment. *See* **Practice** (Chancery Division—Chambers proceedings—Judgment).

County court—

Generally. *See* **County court** (Judgment or order).

Default of defence—

Duty of court—

Court to give such judgment as plaintiff entitled to—Statement of claim alleging infringement of copyright and seeking injunctive relief—Whether court retaining any discretion—Whether court entitled to set time limit to injunction—Whether court entitled to attach conditions to injunction—RSC Ord 19, r 7(1). **Phonographic Performance Ltd v Maitra (Performing Right Society Ltd intervening)** [1998] 2 638, CA.

Liquidated demand—

Plaintiff issuing writ against defendant in respect of claim for debts owed and obtaining judgment in default of defence—Defendant applying to set aside judgment on grounds that it contained irregularities, alternatively, that there was a set-off defence to the claim—Whether judgment should be set aside ex debito justitiae—Whether sufficient merits in defendant's defence justifying setting aside judgment—RSC Ord 13, r 9. **Bank of Credit and Commerce International (Overseas) Ltd (in liq) v Habib Bank Ltd** [1998] 4 753, Ch D.

Regularity—

Defence served after expiry of time limit and without leave to serve out of time—Judgment in default entered after late service of defence—Whether judgment regular—RSC Ord 19, r 2. **Lady Elizabeth Anson (t/a Party Planners) v Trump** [1998] 3 331, CA.

## JUDGMENT (cont)

Enforcement—

County court judgment. *See* **County court** (Judgment or order—Enforcement).

Execution—

Generally. *See* **Execution**.

Handed down judgments—

Availability—

Judgments in advance of hearing—Approved versions—Uncorrected copies—Approved judgments—

Restrictions on disclosure or reporting—Approved versions of ex tempore judgments—Citation of authorities. **Practice Statement** [1998] 2 667, Supreme Ct.

Setting aside—

Judgment after trial in absence of party—

Factors to be considered in setting aside judgment after trial—Whether reason for party's absence a material factor—Whether conduct of parties to be considered—Whether successful party prejudiced if judgment set aside—Whether different principles applying to application to set aside judgment after trial and judgment in default—RSC Ord 35, r 2(1). **Shocked v Goldschmidt** [1998] 1 372, CA.

## JUDICIAL NOTICE

Dangerous article. *See* **Criminal evidence** (Judicial notice—Dangerous article).

## JUDICIAL PROCEEDINGS

Absolute privilege—

Libel and slander. *See* **Libel and slander** (Privilege—Absolute privilege—Judicial proceedings).

## JUDICIAL REVIEW

Availability of remedy—

Alternative remedy available—

National Trust taking decision to ban deer-hunting with hounds on its land—Plaintiffs seeking to challenge decision by way of judicial review—Whether alternative remedy available—Whether plaintiffs should be granted leave to move for judicial review. **Scott v National Trust for Places of Historic Interest or Natural Beauty** [1998] 2 705, Ch D.

Parliamentary Commissioner for Standards—

Relationship between Parliament and courts—Complainant dissatisfied with conclusion of the commissioner's investigation into complaint—Commissioner an independent person appointed by Parliament to exercise an investigative function—Whether commissioner's activities susceptible to judicial review—Bill of Rights (1688), s 1, art 9. **R v Parliamentary Comr for Standards, ex p Al Fayed** [1998] 1 93, CA.

Costs of application—

Pre-emptive order for costs—

Public interest challenge—Applicants applying for order that no order for costs be made against them whatever outcome of application—Principles to be applied in exercise of court's discretion—Whether pre-emptive orders should be made—RSC Ord 62, r 3(3). **R v Lord Chancellor, ex p Child Poverty Action Group, R v DPP, ex p Bull** [1998] 2 755, QBD.

Parliamentary Commissioner for Standards—

Whether commissioner's activities susceptible to judicial review. *See* Availability of remedy—Parliamentary Commissioner for Standards, *ante*.

## JURY

Protection of jury—

Judge's discretion—

Prosecution applying for jury protection without giving reasons or calling evidence—Judge granting application and ordering that jurors should be known by numbers instead of having their names read out—Whether judge right to do so—Whether defendant's conviction unsafe—Juries Act 1974, s 12(3). **R v Comerford** [1998] 1 823, CA.

## JUSTICES

Generally. *See* **Magistrates**.

Licensing—

Generally. *See* **Licensing**.

## KNIFE

Butterfly knife—

Whether dangerous article per se. *See* **Criminal law** (Dangerous article—Article 'made or adapted for use for causing injury'—Butterfly knife).

## LAND

Compensation—

Compulsory purchase. *See* **Compulsory purchase** (Compensation).

Compulsory purchase—

Generally. *See* **Compulsory purchase**.

Joint tenancy—

Generally. *See* **Joint tenancy**.

Limitation of action. *See* **Limitation of action** (Land).

Possession—

Adverse possession. *See* **Limitation of action** (Land—Adverse possession).

Registration—

Generally. *See* **Land registration**.

Restrictive covenant affecting. *See* **Restrictive covenant affecting land**.

## LAND REGISTRATION

Acquisition of title by possession—

Leaseholds—

Effect of surrender of lease on rights of squatter acquired by adverse possession against lessee—Land Registration Act 1925, s 75. **Central London Commercial Estates Ltd v Kato Kagaku Co Ltd (Axa Equity and Law Life Assurance Society plc, third party)** [1998] 4 948, Ch D.

## LANDLORD AND TENANT

Agricultural holding—

Generally. *See* **Agricultural holding**.

Arrears of rent—

Forfeiture of lease. *See* Forfeiture of lease—Arrears of rent, *post*.

Assignment of lease—

Consent not to be unreasonably withheld—

Landlord failing to request information about financial standing of proposed assignee—Landlord seeking to rely on absence of such information in proceedings brought by tenant following landlord's failure to give consent—Whether landlord entitled to do so—Landlord and Tenant Act 1988, s 1(3). **Norwich Union Life Insurance Society v Shopmoor Ltd** [1998] 3 32, Ch D.

Breach of covenant to repair—

Specific performance—

Jurisdiction to make order requiring landlord to repair—Circumstances in which order will be made. **Rainbow Estates Ltd v Tokenhold Ltd** [1998] 2 860, Ch D.

Business premises—

Application for new tenancy—

Request by tenant for new tenancy—Lease of office premises for term of years with option to determine—Lessee serving notice to determine on landlord together with request for new tenancy—New tenancy commencing before expiry of existing tenancy but after date of option to determine—Whether notice to determine effective—Whether request for new tenancy effective to determine existing tenancy—Landlord and Tenant Act 1954, s 26. **Garston v Scottish Widows' Fund and Life Assurance Society** [1998] 3 596, CA.

Compensation for disturbance—

Agreement by landlord and tenant excluding tenant's statutory right to compensation for disturbance—Restriction on such agreements—Agreement void if tenant occupying premises 'for the whole of the five years immediately preceding' expiry of lease—Tenant leaving premises 12 days before expiry of lease—Whether tenant occupying premises for five years immediately preceding expiry of lease—Whether agreement void—Whether compensation payable—Landlord and Tenant Act 1954, ss 37 38(2). **Bacchiocchi v Academic Agency Ltd** [1998] 2 241, CA.

Compensation—

Compensation for disturbance—

Business premises. *See* Business premises—Compensation for disturbance, *ante*.

Covenant against underletting without consent—

Consent not to be unreasonably withheld—

Landlord refusing consent on ground that proposed rent was lower than market rent and so might be detrimental to future rent levels of other properties owned by landlord in vicinity—Whether landlord's refusal of consent unreasonable—Landlord and Tenant Act 1988, s 1(3). **Norwich Union Life Insurance Society v Shopmoor Ltd** [1998] 3 32, Ch D.

Landlord refusing consent on grounds that proposed use inappropriate for location and would diminish value of reversion and that accounts of proposed subtenant not strong enough—Landlord communicating reasons for refusing consent by telephone—Whether landlord entitled to rely on oral reasons to justify refusal of consent—Whether landlord's refusal of consent unreasonable—Landlord and Tenant Act 1988, s 1(3)(b). **Footwear Corp Ltd v Amplight Properties Ltd** [1998] 3 52, Ch D.

Distress—

Generally. *See* **Distress**.

Forfeiture of lease—

Arrears of rent—

County court action—Relief against forfeiture—Relief to be granted if lessee paying into court 'all the rent in arrear'—Meaning of 'all the rent in arrear'—Whether including sums falling due after service of summons—County Courts Act 1984, s 138(3). **Maryland Estates Ltd v Bar-Joseph** [1998] 3 193, CA.

Licence to occupy premises—

Tenancy distinguished. *See* Tenancy—Tenancy distinguished from licence, *post*.

Local authority—

Local authority houses. *See* **Housing** (Local authority houses).

New tenancy—

Business premises—

Generally. *See* Business premises, *ante*.

Notice to quit—

Agricultural holding. *See* **Agricultural holding** (Notice to quit).

Rent—

Arrears—

Forfeiture of lease. *See* Forfeiture of lease—Arrears of rent, *ante*.

Distress—

Generally. *See* **Distress** (Distress for rent).

Rent restriction—

Generally. *See* **Rent restriction**.

Repair—

Breach of covenant—

Generally. *See* Breach of covenant to repair, *ante*.



## LANDLORD AND TENANT (cont)

### Tenancy—

#### Joint tenancy—

Determination—Assured weekly tenancy of matrimonial home held jointly by husband and wife—Wife determining tenancy by serving notice to quit—Landlord bringing possession proceedings against husband following expiry of notice—Husband wishing to apply for property adjustment order—Whether notice to quit a 'disposition' of property intended to prevent or reduce financial relief in matrimonial proceedings—Whether court having power to set aside notice to quit in order to make property adjustment order—Whether tenancy 'property' for purposes of property adjustment order—Whether husband having defence to possession claim—Matrimonial Causes Act 1973, ss 24, 37(2). **Newlon Housing Trust v Alsulaimen** [1998] 4 1, HL.

#### Tenancy distinguished from licence—

Almsperson enjoying exclusive occupation of flat in almshouse administered by charitable trust and paying weekly charge—Whether tenancy or licence created. **Gray v Taylor** [1998] 4 17, CA.

### Underletting without consent—

Covenant. *See* Covenant against underletting without consent, *ante*.

## LAWYER

Barrister. *See* **Counsel**.

Professional indemnity insurance. *See* **Insurance** (Liability insurance—Professional indemnity insurance).

Solicitor. *See* **Solicitor**.

## LEASE

Generally. *See* **Landlord and tenant**.

## LEAVE

### Appeal—

#### Court of Appeal—

Generally. *See* **Court of Appeal** (Leave to appeal).

## LEGAL ADVISER

### Correspondence with legal adviser—

Prisoner. *See* **Prison** (Letters—Prisoner's letters—Correspondence with legal adviser).

## LEGAL AID

### Order for costs—

#### Award of costs against assisted person—

Enforcement of order—Court of Appeal, following appeal from county court, making order for costs against assisted person, not to be enforced without leave of the court—Whether leave of Court of Appeal or of county court required to enforce order—Supreme Court Act 1981, ss 15(4), 17(1)—County Courts Act 1984, s 76. **Ager v Ager** [1998] 1 703, CA.

Order not complied with—Assisted person serving statutory demand for payment of costs with consent of Legal Aid Board—Whether order for costs debt—Whether assisted person having locus standi to serve statutory demand—Whether Legal Aid Board having power to authorise service of statutory demand—Legal Aid Act 1988, s 16(5)—Civil Legal Aid (General) Regulations 1989, regs 87(1)(a), 91(2). **Re a debtor (No 68/SD/97)** [1998] 4 779, Ch D.

## LEGAL PROFESSIONAL PRIVILEGE

Discovery. *See* **Discovery** (Legal professional privilege).

## LETTER

### Prisoner—

Letters to and from a prisoner. *See* **Prison** (Letters—Prisoner's letters).

## LIABILITY INSURANCE

*See* **Insurance** (Liability insurance).

## LIBEL AND SLANDER

### Injunction—

#### Interlocutory—

Jurisdiction—Defendant threatening to publish libel unless financial claim satisfied—Plaintiffs seeking injunction restraining defendant from publication—Defendant pleading justification—Whether injunction should be granted—Whether defendant's motive relevant. **Holley v Smyth** [1998] 1 853, CA.

### Particulars—

#### Justification—

Reasonable suspicion of guilt—Hearsay statements—Republication of reports or repetition of assertions alleging involvement in money laundering scheme—Whether defence of justification of reasonable suspicion of guilt having to focus on some conduct of plaintiff giving rise to suspicion—Whether such conduct having to be pleaded and proved—Whether reliance on hearsay statements to support plea of reasonable suspicion of guilt infringing repetition rule. **Shah v Standard Chartered Bank** [1998] 4 155, CA.

### Privilege—

#### Absolute privilege—

Judicial proceedings—Defendant council serving contribution notice on plaintiff's husband in respect of costs of fostering their adoptive son—Plaintiff's solicitor requesting information from defendants' solicitor as to who had initiated removal of son into foster accommodation—Whether answer given absolutely privileged. **Waple v Surrey CC** [1998] 1 624, CA.

Qualified privilege. *See* Qualified privilege, *post*.

#### Qualified privilege—

##### Common law privilege—

Whether qualified privilege protecting publication to public at large where plaintiff an elected politician and defamatory words complained of relating to his conduct in his public role rather than his private or personal life. **Reynolds v Times Newspapers Ltd** [1998] 3 961, CA.

## LICENCE

- Licence to occupy land—
  - Tenancy distinguished—
    - Generally. See **Landlord and tenant** (Tenancy—Tenancy distinguished from licence).
- Private hire vehicle. See **Road traffic** (Private hire vehicle—Licence).

## LICENSING

- Permitted hours—
  - Special hours certificate—
    - Whether possible in law for two or more special hours certificates to co-exist in respect of same premises—Licensing Act 1964, ss 76(7), 77, 81(3). **R v Crown Court at Stafford, ex p Chief Constable of the Staffordshire Police** [1998] 2 812, QBD.
    - Whether special hours certificate 'bolt-on' addition to ordinary permitted hours or in substitution thereof—Whether licensing justices having power to limit commencement time of special hours certificate—Licensing Act 1964, s 78A. **R v Crown Court at Stafford, ex p Shipley** [1998] 2 465, CA.
- Special hours certificate. See Permitted hours—Special hours certificate, *ante*.

## LIEN

- Marine insurance policy—
  - Broker's lien. See **Marine insurance** (Composite policy—General lien).

## LIFE IMPRISONMENT

- Generally. See **Sentence** (Life imprisonment).
- Release of prisoner on licence. See **Prison** (Release on licence—Life sentence).

## LIMITATION OF ACTION

- Accrual of cause of action—
  - Action to recover sums recoverable by virtue of statute—
    - Compulsory purchase—Entry on land by acquiring authority—Interest payable on compensation for cost of reasonable reinstatement—Whether claim for interest statute-barred—Compulsory Purchase Act 1965, s 11—Limitation Act 1980, s 9. **Halstead v Manchester City Council** [1998] 1 33, CA.
- Action on judgment—
  - Action—
    - Plaintiffs seeking to enforce judgment after 11½ years—Whether execution of judgment or bringing of fresh action barred after six years—Whether, when judgment executed after six years, interest on judgment limited to period of six years before date of execution—Limitation Act 1980, s 24(1)(2). **Lowsley v Forbes (t/a L E Design Services)** [1998] 3 897, HL.
- Land—
  - Adverse possession—
    - Squatter acquiring rights by adverse possession against lessee of registered land—Lessee surrendering lease to freeholder—Whether freeholder thereby obtaining right to immediate possession against squatter—Land Registration Act 1925, s 75. **Central London Commercial Estates Ltd v Kato Kagaku Co Ltd (Axa Equity and Law Life Assurance Society plc, third party)** [1998] 4 948, Ch D.
- Postponement of limitation period—
  - Action for relief from consequences of mistake—
    - Bank seeking recovery of payments made to local authorities under swap agreements—Whether bank's claim time-barred—Whether 'mistakes' including mistake of law—Limitation Act 1980, s 32(1)(c). **Kleinwort Benson Ltd v Lincoln City Council** [1998] 4 513, HL.
- When time begins to run—
  - Personal injury claim—
    - Plaintiff's knowledge—Plaintiff's knowledge of identity of defendant—Solicitors failing to establish identity of defendant within limitation period—Whether action statute-barred—Whether plaintiff fixed with constructive knowledge which her solicitors ought to have acquired—Limitation Act 1980, s 14(3). **Henderson v Temple Pier Co Ltd** [1998] 3 324, CA.

## LISTED BUILDING

- Planning control. See **Town and country planning** (Building of special architectural or historic interest).

## LITIGANT IN PERSON

- Costs—
  - Review of taxation—
    - Jurisdiction. See **Costs** (Taxation—Review of taxation—Jurisdiction—Litigant in person).

## LOCAL AUTHORITY

- Education—
  - Generally. See **Education** (Local education authority).
- Housing—
  - Generally. See **Housing**.
- Negligence—
  - Duty to take care—
    - Existence of duty. See **Negligence** (Duty to take care—Existence of duty—Local authority).
- Nuisance—
  - Statutory nuisance. See **Nuisance** (Statutory nuisance).
- Planning authority. See **Town and country planning**.

## LONG-TERM INSURANCE BUSINESS

- Transfer of. See **Insurance** (Transfer of long-term insurance business).

## LUMP SUM PAYMENT

- Divorce. See **Divorce** (Financial provision—Lump sum order).

## MAGISTRATES

- Bail. See **Criminal law** (Bail).

## MAGISTRATES (cont)

### Binding over—

#### Natural justice—

Opportunity to make representations—Applicant bound over to keep peace—Binding over requiring applicant to pay sum in his own recognisance and requiring a surety—Applicant not given an opportunity to make representations before order made—Whether order to be set aside as being in breach of natural justice—Justices of the Peace Act 1361. **R v Clerkenwell Metropolitan Stipendiary Magistrate, ex p Hooper** [1998] 4 193, QBD.

### Committal for trial—

Procedure. *See* **Crown Court** (Committal to Crown Court for trial).

### Committal proceedings—

Generally. *See* **Criminal law** (Committal—Preliminary hearing before justices).

### Extradition. *See* **Extradition**.

### Indorsement of Irish warrant—

#### Order for return—

Irish warrants indorsed for execution in England charging applicant with various offences—Whether offences specified corresponding with English offences—Whether magistrate having sufficient material to conclude that they did—Backing of Warrants (Republic of Ireland) Act 1965, s 2(2). **Re Gilligan, R v Crown Court at Woolwich, ex p Gilligan** [1998] 2 1, QBD.

### Information—

Jurisdiction. *See* Jurisdiction—Trial of information, *post*.

### Jurisdiction—

#### Mode of trial—

Young person appearing with adult before magistrates on committal proceedings—No case to answer in relation to adult—Case to answer in relation to young person—Magistrates referring young person to youth court for that court to determine mode of trial—Whether magistrates having power to do so—Children and Young Persons Act 1933, s 53—Magistrates' Courts Act 1980, s 24. **R v Tottenham Youth Court, ex p Fawzy** [1998] 1 365, QBD.

#### Trial of information—

Validity of information—Laying of information—Time limit—Information in relation to Companies Act offence not laid within time limit contained in statutory provision—Offence charged triable either way—Whether statutory provision applying to offences triable either way or solely to offences triable only summarily—Whether magistrate having jurisdiction to try case—Magistrates' Courts Act 1980, s 127(1)(2)—Companies Act 1985, s 731(2). **R v Thames Magistrates' Court, ex p Horgan** [1998] 1 559, QBD.

### Licensing—

Generally. *See* **Licensing**.

### Natural justice—

Binding over order. *See* Binding over—Natural justice, *ante*.

### Nuisance—

#### Statutory nuisance—

Complaint to justices. *See* **Nuisance** (Statutory nuisance—Complaint to justices).

## MAIL

### Prisoner—

Letters to and from prisoner. *See* **Prison** (Letters—Prisoner's letters).

## MAINTENANCE

Highway. *See* **Highway** (Maintenance).

## MALADMINISTRATION

Pension scheme. *See* **Pension** (Pension scheme—Maladministration of pension scheme).

## MAN

### Discrimination against a man—

Employment. *See* **Employment** (Discrimination against a man).

## MAP

### Highway—

#### Dedication—

Evidence. *See* **Highway** (Dedication—Evidence—Definitive map).

## MAREVA INJUNCTION

Generally. *See* **Practice** (Pre-trial or post-judgment relief—Mareva injunction).

## MARINE INSURANCE

### Composite policy—

#### General lien—

Proceeds of policy—Whether general rule that broker who has lien over policy of marine insurance is normally entitled, when he collects under policy, to apply proceeds collected in discharge of debt that was protected by lien, extends to cases of composite insurance—Marine Insurance Act 1906, s 53(2). **Eide UK Ltd v Lowndes Lambert Group Ltd** [1998] 1 946, CA.

## MARX

Trade. *See* **Trade mark**.

## MARRIAGE

Dissolution. *See* **Divorce**.

### Nullity—

Generally. *See* **Nullity**.

## MEASURE OF DAMAGES

Generally. *See* **Damages** (Measure of damages).



## MEDICAL PRACTITIONER

- Disciplinary committee—
  - Whether a 'court'. *See* **Contempt of court** (Publications concerning disciplinary proceedings—Professional Conduct Committee of the General Medical Council).
- Negligence—
  - Costs—
    - Order for costs—Discretion. *See* **Costs** (Order for costs—Discretion—Claim for professional medical negligence).

## MEDICAL TREATMENT

- Adult patient—
  - Consent to treatment—
    - Right to refuse treatment—Patient 36 weeks pregnant diagnosed with pre-eclampsia and advised she needed to be admitted to hospital for an induced delivery—Patient rejecting advice as wishing her baby to be born naturally—Patient admitted against her will to mental hospital and later transferred to general hospital—Judge on ex parte application disposing with patient's consent to medical treatment and patient delivered of baby by Caesarean section—Patient transferred back to mental hospital and later discharged herself—Whether judge right in dispensing with patient's consent—Whether patient's detention, treatment and transfer lawful—Mental Health Act 1983, s 2. **St George's Healthcare NHS Trust v S, R v Collins, ex p S** [1998] 3 673, CA.

## MEN AND WOMEN

- Equality of treatment—
  - Employment. *See* **Employment** (Equality of treatment of men and women).
  - European Community. *See* **European Community** (Equality of treatment of men and women).

## MENTAL HEALTH

- Admission of patient to hospital—
  - Admission for treatment—
    - Detention of patient in hospital—Whether hospital entitled to detain patient admitted on informal basis under common law doctrine of necessity—Mental Health Act 1983, s 131. **R v Bournewood Community and Mental Health NHS Trust, ex p L (Secretary of State for Health intervening)** [1998] 3 289, HL.
- Mental health review tribunal—
  - Discharge of restricted patient—
    - Applicant applying for discharge of restriction order—Mental health review tribunal refusing application, but recommending transfer to a regional secure unit—Applicant's responsible medical officer making proposal for trial leave—Secretary of State referring matter to Advisory Board on Restricted Patients—Board finding that applicant still dangerous and refusing to support proposal—Secretary of State refusing consent to proposal—Applicant not invited to make representations—Further information not disclosed to applicant—Whether Secretary of State's decisions to refer proposal to board and to act on its recommendation irrational—Whether Secretary of State bound to follow recommendations of tribunal—Mental Health Act 1983, s 73(1). **R v Secretary of State for the Home Dept, ex p Harry** [1998] 3 360, QBD.
- Patient—
  - Admission to hospital. *See* Admission of patient to hospital, *ante*.
  - After-care services—
    - Negligence—Health authority—Duty of care. *See* **Negligence** (Duty to take care—Existence of duty—Health authority—Health authority owing statutory duty to provide after-care services for discharged mental patients).

## MENTAL SHOCK

- Negligence—
  - Damages. *See* **Damages** (Personal injury—Nervous shock).

## MINOR

- Change of surname—
  - Unmarried parents—
    - Mother known by former husband's name—Parents separating shortly after birth of child—Birth of child registered in mother's name—Father applying to change register—Whether court can make order for change of name where no residence order in force—Whether court can make specific issue order for change of name—Children Act 1989, ss 8, 13. **Dawson v Wearmouth** [1998] 1 271, CA.
- Gross indecency with minor. *See* **Criminal law** (Gross indecency—Child).
- Indecent photograph of—
  - Obscene publication. *See* **Criminal law** (Obscene publications—Indecent photographs of children).
- Occupier's liability. *See* **Occupier's liability** (Children).

## MINORITY SHAREHOLDER

- See* **Company** (Minority shareholder).

## MONEY

- Money had and received—
  - Restitution—
    - Quasi-contract. *See* **Restitution** (Quasi-contract—Money had and received).

## MORTGAGE

- Sale—
  - Duty of mortgagee—
    - Standard of duty in exercising power of sale—Security including business—Whether duty to preserve business pending realisation of security. **AIB Finance Ltd v Debtors** [1998] 2 929, CA.

## MOTOR INSURANCE

Compulsory insurance against third party risks—

Liabilities required to be covered—

Owner insured against third party risks incurred by use of vehicle on road—Passenger sustaining injury in public car park—Whether injury arising out of use of vehicle on road—Whether car park a 'road'—Road Traffic Act 1988, ss 145, 151, 192. **Cutter v Eagle Star Insurance Co Ltd, Clarke v Kato** [1998] 4 417, HL.

## MOTOR VEHICLE

Insurance. *See* **Motor insurance**.

Private hire vehicle. *See* **Road traffic** (Private hire vehicle).

## MUNICIPAL CEMETERY

Scheme of management. *See* **Ecclesiastical law** (Cemetery—Municipal cemetery—Scheme of management).

## MURDER

Generally. *See* **Criminal law** (Murder).

## NAME

Change—

Minor's surname. *See* **Minor** (Change of surname).

Passing off—

Trade name. *See* **Passing off** (Trade name).

Trade mark—

Infringement. *See* **Trade mark** (Infringement—Name).

## NATIONAL HEALTH SERVICE

Pension scheme—

Maladministration. *See* **Pension** (Pension scheme—Maladministration of pension scheme—National Health Service).

## NATIONALITY

Discrimination on grounds of—

Corporation tax—

European Community. *See* **European Community** (Freedom of establishment—Discrimination on grounds of nationality—Corporation tax).

Security for costs—

European Community. *See* **European Community** (Costs—Security for costs—Discrimination on grounds of nationality).

Workers—

European Community. *See* **European Community** (Workers—Freedom of movement—Discrimination on grounds of nationality).

## NATURAL JUSTICE

Magistrates—

Binding over. *See* **Magistrates** (Binding over—Natural justice).

## NEGLIGENCE

Barrister. *See* **Counsel** (Negligence).

Child—

Foreseeable harm. *See* Duty to take care—Foreseeable harm—Child, *post*.

Costs—

Medical negligence action—

Discretion. *See* **Costs** (Order for costs—Discretion—Claim for professional medical negligence).

Counsel. *See* **Counsel** (Negligence).

Damages—

Interest—

Generally. *See* **Interest** (Damages—Negligence).

Measure of damages. *See* **Damages** (Measure of damages—Negligence).

Personal injury. *See* **Damages** (Personal injury).

Duty to take care—

Employer—

Employee developing symptoms of repetitive strain injury—Employee claiming damages for negligence in respect of injury allegedly caused by amount of typing work—Employee failing to satisfy judge that her condition was organic in origin—Judge also holding that her employer was not under a duty to instruct her to take rest breaks and dismissing claim—Whether Court of Appeal entitled to reverse judge on burden of proof and findings of fact. **Pickford v Imperial Chemical Industries plc** [1998] 3 462, HL.

Existence of duty—

Health and safety inspector—Plaintiff operating bungee jumping business from mobile crane—Plaintiff prevented from continuing with business by local authorities on incorrect advice from health and safety inspector—Whether inspector owing duty of care to plaintiff as to content of advice—Health and Safety at Work etc Act 1974. **Harris v Evans** [1998] 3 522, CA.

Health authority—Health authority owing statutory duty to provide after-care services for discharged mental patients—Responsible medical officer appointed for plaintiff but plaintiff failing to attend appointments arranged—Plaintiff killing man in unprovoked attack, pleading guilty to manslaughter by reason of diminished responsibility and ordered to be detained in secure hospital—Plaintiff bringing action against health authority for negligence—Whether health authority's statutory obligations giving rise to common law duty of care—Whether fair, just and reasonable to impose duty of care—Whether plaintiff's action barred on grounds of public policy—Mental Health Act 1983, s 117. **Clunis v Camden and Islington Health Authority** [1998] 3 180, CA.

## NEGLIGENCE (cont)

Duty to take care (cont)—

Existence of duty (cont)—

Local authority—Fostering agreement—Plaintiff foster parents stipulating that they did not want to foster a known or suspected sexual abuser—Defendants placing known sexual abuser with plaintiff family—Defendants assuring plaintiffs that fostered child not a known or suspected abuser—Fostered child abusing foster parents' children—Whether local authority liable in negligence to foster parents or children where performing duties imposed by statute. **W v Essex CC** [1998] 3 111, CA.

Foreseeable harm—

Child—Test of foreseeability—15-year-old plaintiff injured during game with defendant of same age at school—Game not considered dangerous or prohibited by school authorities—Whether accident foreseeable to 15-year-old child—Whether defendant negligent. **Mullin v Richards** [1998] 1 920, CA.

Police—

Generally. *See* **Police** (Negligence—Duty to take care).

Foreseeable harm—

Duty of care. *See* Duty to take care—Foreseeable harm, *ante*.

Health and safety inspector—

Duty to take care. *See* Duty to take care—Existence of duty—Health and safety inspector, *ante*.

Health authority—

Duty to take care—

Existence of duty. *See* Duty to take care—Existence of duty—Health authority, *ante*.

Local authority—

Existence of duty to take care. *See* Duty to take care—Existence of duty—Local authority, *ante*.

Medical practitioner—

Costs—

Order for costs—Discretion. *See* **Costs** (Order for costs—Discretion—Claim for professional medical negligence).

Mental shock—

Damages. *See* **Damages** (Personal injury—Nervous shock).

Misstatement—

Conflict of laws. *See* **Conflict of laws** (Jurisdiction—Challenge to jurisdiction—Negligent misstatement).

Nervous shock—

Damages. *See* **Damages** (Personal injury—Nervous shock).

Occupier. *See* **Occupier's liability**.

Personal injury—

Damages—

Generally. *See* **Damages** (Personal injury).

Police—

Generally. *See* **Police** (Negligence).

Solicitor—

Generally. *See* **Solicitor** (Negligence).

Valuer—

Damages—

Interest. *See* **Interest** (Damages—Negligence—Valuer).

Measure of damages. *See* **Damages** (Measure of damages—Negligence—Valuer).

## NERVOUS SHOCK

Damages for. *See* **Damages** (Personal injury—Nervous shock).

## NEWSPAPER

Article—

False attribution of authorship. *See* **Copyright** (False attribution of authorship—Attribution—Newspaper article).

Contempt of court—

Publications concerning legal proceedings. *See* **Contempt of court** (Publications concerning legal proceedings).

## NONSUIT

County court practice. *See* **County court** (Practice—Nonsuit).

## NOTICE TO QUIT

Agricultural holding. *See* **Agricultural holding** (Notice to quit).

## NUCLEAR INSTALLATION

Licensee—

Liability to pay compensation—

Plaintiff's land becoming contaminated with radioactive material—Plaintiff unable to sell land—Whether contamination causing 'damage' to property—Whether amount of compensation limited to damage to land or extending to diminution in value or saleability of land—Nuclear Installations Act 1965, ss 7, 12. **Blue Circle Industries plc v Ministry of Defence** [1998] 3 385, CA.

## NUISANCE

Statutory nuisance—

Complaint to justices—

Proceedings against local authority—Costs—Mandatory award of costs against defendant—Whether magistrates required to award costs against local authority—Whether magistrates having discretion not to allow costs if in opinion of court it was unnecessary for proceedings to be instituted—Environmental Protection Act 1990, s 82(12). **R v Dudley Magistrates' Court, ex p Hollis, Hollis v Dudley Metropolitan BC, Probert v Dudley Metropolitan BC** [1998] 1 759, QBD.

Proceedings against local authority—Statutory nuisance still existing at date of hearing—Whether magistrates having right to adjourn proceedings to enable local authority to abate nuisance—Magistrates' Courts Act 1980, ss 10, 54—Environmental Protection Act 1990, s 82(2). **R v Dudley Magistrates' Court, ex p Hollis, Hollis v Dudley Metropolitan BC, Probert v Dudley Metropolitan BC** [1998] 1 759, QBD.



## **NUISANCE (cont)**

Statutory nuisance (cont)—

Premises in such a state as to be prejudicial to health or a nuisance—

Premises likely to cause personal injury as a result of steep internal staircase—Whether premises capable in law of constituting a statutory nuisance—Environmental Protection Act 1990, s 79(1)(a). **R v Bristol City Council, ex p Everett** [1998] 3 603, QBD.

## **NULLITY**

Financial provision—

Conduct of parties—

Bigamous marriage—Whether person who knowingly enters into bigamous marriage entitled to claim ancillary relief—Matrimonial Causes Act 1973, s 25. **Whiston v Whiston** [1998] 1 423, CA.

Duty of court to have regard to conduct—Void marriage—Transsexual making false declarations that no impediment to marriage—Other party being deceived as to gender—Transsexual claiming ancillary relief following decree of nullity—Whether claim barred in limine on grounds of public policy—Whether court having discretion to grant relief—Matrimonial Causes Act 1973, ss 11(c), 25(1). **S-T (formerly J) v J** [1998] 1 431, CA.

## **OBSCENE PUBLICATIONS**

Generally. *See* **Criminal law** (Obscene publications).

## **OCCUPIER'S LIABILITY**

Children—

Danger or trap to child—

Accident on land owned by council—Foreseeability—Council negligently leaving abandoned boat on amenity land—Plaintiff attempting to repair boat—Plaintiff jacking boat up and working underneath it—Boat falling on plaintiff and causing injury—Whether accident reasonably foreseeable. **Jolley v Sutton London BC** [1998] 3 559, CA.

## **ORDER**

County court—

Generally. *See* **County court** (Judgment or order).

## **OVERSEA COMPANY**

Generally. *See* **Company** (Oversea company).

## **PARLIAMENTARY COMMISSIONER FOR STANDARDS**

Judicial review of decision of. *See* **Judicial review** (Availability of remedy—Parliamentary Commissioner for Standards).

## **PARTICULARS**

Libel proceedings—

Generally. *See* **Libel and slander** (Particulars).

## **PARTIES**

Charity proceedings. *See* **Charity** (Proceedings—Parties).

Description of parties. *See* **Practice** (Parties—Description of parties).

Substitution. *See* **Practice** (Parties—Substitution).

## **PARTNERSHIP**

Foreign partnership—

Action against Swiss general partnership—

Whether partnership should be named as defendant. *See* **Practice** (Parties—Description of parties—Defendants sued as individual partners in Swiss general partnership).

Solicitor—

Liability for acts of his partners—

Negligence. *See* **Solicitor** (Negligence—Partnership).

## **PASSING OFF**

Conflict of laws—

Challenge to jurisdiction. *See* **Conflict of laws** (Jurisdiction—Challenge to jurisdiction—Passing off).

False attribution of authorship—

Attribution—

Newspaper article—Article by journalist in form of diary, parodying published diaries of plaintiff—Plaintiff seeking injunction restraining defendant from publishing work falsely attributed to him—Whether article attributing authorship to plaintiff—Whether plaintiff entitled to injunction. **Clark v Associated Newspapers Ltd** [1998] 1 959, Ch D.

Trade name—

Internet domain names—

Registration of company names as Internet domain names—Registration of names carried out by dealer in domain names—Judge granting injunction against dealer—Whether judge right to do so—Whether passing off or threatened passing off established—Whether registered domain names instruments of fraud. **British Telecommunications plc v One In A Million Ltd** [1998] 4 476, CA.

## **PATENT**

Cause of action estoppel. *See* **Estoppel** (Res judicata—Cause of action estoppel—Patent).

Patents Court—

Procedure to be followed—

Specimen minute of order for directions—Guidance—RSC Ord 104. **Practice Direction** [1998] 1 279, Pat Ct; [1998] 3 372, Pat Ct.

Practice—

Patents Court—

Generally. *See* **Patents Court**, *ante*.

## PATENTS COURT

See **Patent** (Patents Court).

## PATIENT

Medical treatment—

Generally. See **Medical treatment**.

## PAY

Equal pay—

Men and women—

Equality of treatment—European Community. See **European Community** (Equality of treatment of men and women).

Equality of treatment—Generally. See **Employment** (Equality of treatment of men and women).

## PAYMENT INTO COURT

County court—

Generally. See **County court** (Practice—Payment into court).

## PENDING ACTION

Interlocutory injunction. See **Injunction** (Interlocutory—Pending proceedings).

## PENSION

Damages for personal injuries—

Whether pension to be taken into account. See **Damages** (Personal injury—Loss of future earnings—Pension).

Equality of treatment of men and women—

European Community. See **European Community** (Equality of treatment of men and women).

Part-time employees' retrospective claims time-barred and restricted by national legislation—

Meaning of 'the employment'—Equal Pay Act 1970, s 2(4). **Preston v Wolverhampton Healthcare NHS Trust, Fletcher v Midland Bank plc** [1998] 1 528, HL.

Pension scheme—

Forfeiture provision—

Member of scheme becoming bankrupt—Whether benefits to which member entitled vesting in trustee in bankruptcy—Whether forfeiture provision effective to prevent such vesting. **Re Trusts of the Scientific Investment Pension Plan** [1998] 3 154, Ch D.

Maladministration of pension scheme—

Jurisdiction of Pensions Ombudsman—Exercise of jurisdiction of Pensions Ombudsman—Trustees of pension scheme amending rules by deed of amendment—Pensions Ombudsman holding that trustees had acted in breach of trust and directing deed of amendment to be set aside—Deed of amendment depriving members who were not parties to proceedings of proprietary rights to which they were entitled—Whether ombudsman having jurisdiction to set aside deed of amendment—Whether trustees under duty to act impartially when exercising discretionary powers between various beneficiaries—Whether trustees who were members in service accountable for any benefit resulting from exercise of discretion because of conflict of interest—Pension Schemes Act 1993, s 146. **Edge v Pensions Ombudsman** [1998] 2 547, Ch D.

National Health Service—Initial occupational pension increasing annually by compound percentage increase—Initial pension subject to reduction on entitlement to state pension—Department of Health determining reduction to be from initial pension, not from increased pension—Whether correct—Pensions (Increase) Act 1971, s 17—Social Security Pensions Act 1975, s 59—National Health Service (Superannuation) Regulations 1980, reg 56(3)(c). **Department of Health v Pensions Ombudsman** [1998] 4 508, CA.

Teacher. See **Education** (Teacher—Pension).

## PERFORMANCE BOND

Generally. See **Contract** (Bond—Performance bond).

## PERMITTED HOURS

Licensing. See **Licensing** (Permitted hours).

## PERSONAL INJURIES

Action—

Limitation of time—

When time begins to run. See **Limitation of action** (When time begins to run—Personal injury claim).

Damages—

Generally. See **Damages** (Personal injury).

## PERSONAL REPRESENTATIVES

Appropriation of intestate's estate. See **Intestacy** (Appropriation by personal representatives).

## PETITION

Insolvency—

Generally. See **Insolvency** (Petition).

## PHOTOGRAPH

Indecent photographs of children—

Obscene publications. See **Criminal law** (Obscene publications—Indecent photographs of children).

## PLANNING

Planning permission—

Development—

Generally. See **Town and country planning**.

## PLEADING

Amendment—

Application for leave to amend—

Perjured evidence—Defendants seeking leave to reamend points of defence on ground that plaintiffs' witnesses had given perjured evidence—Whether evidence of perjury admissible. **Westacre Investments Inc v Jugoimport-SPDR Holding Co Ltd** [1998] 4 570, QBD.

## POISON

Pollution of river. *See* **Water and watercourses** (Pollution of river—Causing poisonous, noxious or polluting matter or solid waste to enter controlled waters).

## POLICE

Arrest without warrant. *See* **Arrest** (Arrest without warrant).

Disclosure of information—

Extent of powers—

Police formulating a policy of disclosing information about paedophiles resident in area to persons potentially at risk—Police acquiring information on two convicted paedophiles staying at a caravan site in area—Police concluding that public interest requiring them to disclose identity of paedophiles to site owner—Whether police treating paedophiles in procedurally unfair manner—Whether disclosure lawful. **R v Chief Constable of the North Wales Police, ex p AB** [1998] 3 310, CA.

Negligence—

Duty to take care—

Person in custody—Suicide risk—Police taking person with suicidal tendencies into custody—Police having knowledge of prisoner's suicidal tendencies—Prisoner committing suicide by hanging himself using shirt tied through spyhole on outside of cell door—Administratrix on behalf of deceased estate bringing action for negligence against police—Whether police failing to take reasonable steps to prevent prisoner committing suicide—Whether defences of *volenti non fit injuria*, *novus actus interveniens* or *ex turpi causa non oritur actio* available. **Reeves v Comr of Police of the Metropolis** [1998] 2 381, CA.

Search warrant—

Conspiracy to defraud—

Extent of police powers under search warrant—Seizure of documents not authorised by warrant—Magistrate issuing search warrants for documents relating to advance fee fraud by group of companies—Police removing from premises whole files believed to contain relevant documents and some material unconnected with group—Companies and managers applying for judicial review—Whether scope of warrants too wide—Whether seizure of documents not authorised by warrant rendering whole search unlawful—Police and Criminal Evidence Act 1984, ss 8, 15, 16. **R v Chief Constable of the Warwickshire Constabulary, ex p Fitzpatrick** [1998] 1 65, QBD.

Special procedure material—

Generally. *See* **Criminal evidence** (Special procedure material).

## POLLUTION

River. *See* **Water and watercourses** (Pollution of river).

## POSSESSION

Conversion. *See* **Conversion** (Possession).

## PRACTICE

Abuse of process—

Stay of proceedings—

Court-martial. *See* **Court-martial** (Trial—Stay of proceedings—Abuse of process).

Criminal proceedings. *See* **Criminal law** (Trial—Stay of proceedings—Abuse of process).

Admiralty and Commercial Court Registry—

Setting down for trial—

Time for setting down—Documents to be lodged—Time for delivery of skeleton arguments—RSC Ord 34, r 3(1)—Guide to Commercial Court Practice, para 6.5, App III, para (7), App V, para 5. **Practice Direction** [1998] 2 672, QBD.

Amendment—

Pleading. *See* **Pleading** (Amendment).

Appeal—

Criminal cases—

Court of Appeal. *See* **Criminal law** (Court of Appeal).

Leave to appeal—

Court of Appeal. *See* **Court of Appeal** (Leave to appeal).

Arbitration. *See* **Arbitration**.

Automatic directions—

Striking out—

County court practice. *See* **County court** (Practice—Striking out—Automatic directions).

Case stated—

Generally. *See* **Case stated**.

Chambers proceedings—

Judgment—

Chancery Division. *See* **Chancery Division**—Chambers proceedings—Judgment, *post*.

Queen's Bench Division—

Report of proceedings—Judge permitting directions made in chambers to be released to press but ordering parties and their advisers not to make any comments to media—Whether judge right to do so. **Hodgson v Imperial Tobacco Ltd** [1998] 2 673, CA.

Chancery Division—

Chambers proceedings—

Judgment—Status of judgment—Whether judgment given in chambers secret document—Whether leave should be given to disseminate judgment. **Forbes v Smith** [1998] 1 973, Ch D.

Costs—

Arbitration. *See* **Arbitration** (Costs).

Generally. *See* **Costs**.



## PRACTICE (cont)

### Costs (cont)—

#### Judicial review—

Costs of application for judicial review. *See* **Judicial review** (Costs of application).

#### Solicitor—

Generally. *See* **Solicitor** (Costs).

### County court. *See* **County court**.

### Crown Court. *See* **Crown Court**.

### Damages—

Generally. *See* **Damages**.

Interest. *See* **Interest** (Damages).

### Delay—

Dismissal of action for want of prosecution. *See* Dismissal of action for want of prosecution, *post*.

### Discontinuance of action—

County court practice. *See* **County court** (Practice—Discontinuance of action).

### Discovery. *See* **Discovery**.

### Dismissal of action for want of prosecution—

#### Appeal—

Action dismissed—Notice of appeal served by plaintiff outside prescribed time limit—No explanation given of delay—Application for leave to appeal out of time—Whether court able to exercise discretion in plaintiff's favour—Whether prejudice to defendant material—RSC Ord 3, r 5. **Finnegan v Parkside Health Authority** [1998] 1 595, CA.

#### Delay—

Inordinate delay without excuse. *See* Dismissal of action for want of prosecution—Inordinate delay without excuse, *post*.

Prejudice to defendant—Inquiry as to damages under cross-undertaking—Delay in presenting inquiry—Application to strike out—Principles to be applied by court in considering application—Whether party had to show that he had been prejudiced by delay. **Barratt Manchester Ltd v Bolton Metropolitan BC** [1998] 1 1, CA.

#### Inordinate delay without excuse—

Action being statute-barred if struck out—Plaintiff having second possible cause of action subject to longer and unexpired limitation period—Plaintiff likely to commence second action if original action struck out—Whether appropriate to strike out original action. **Arbuthnot Latham Bank Ltd v Trafalgar Holdings Ltd, Chishty Coveney & Co (a firm) v Raja** [1998] 2 181, CA.

### Estoppel. *See* **Estoppel**.

### Execution. *See* **Execution**.

### Family proceedings court. *See* **Family proceedings**.

### Fax—

Service by fax. *See* Service—Service by fax, *post*.

### Foreign proceedings—

Restraint of foreign proceedings. *See* **Conflict of laws** (Foreign proceedings—Restraint of foreign proceedings).

### Habeas corpus. *See* **Habeas corpus**.

### Immunity from civil action—

Generally. *See* **Action** (Immunity from suit).

### Injunction—

Generally. *See* **Injunction**.

#### Mareva injunction—

Generally. *See* Pre-trial or post-judgment relief—Mareva injunction, *post*.

### Insolvency proceedings. *See* **Insolvency**.

### Interest—

Damages. *See* **Interest** (Damages).

Interest on costs. *See* **Costs** (Interest on costs).

### Interim payments order—

Generally. *See* Pre-trial or post-judgment relief—Interim payment, *post*.

### Interlocutory injunction. *See* **Injunction** (Interlocutory).

### Judgment—

#### Action on—

Limitation period. *See* **Limitation of action** (Action on judgment).

County court. *See* **County court** (Judgment or order).

Generally. *See* **Judgment**.

#### Judgment in chambers—

Chancery Division. *See* Chancery Division—Chambers proceedings—Judgment, *ante*.

### Judicial review—

Availability of remedy. *See* **Judicial review** (Availability of remedy).

### Leave to appeal—

Court of Appeal. *See* **Court of Appeal** (Leave to appeal).

### Legal aid. *See* **Legal aid**.

### Legal professional privilege—

Discovery of documents. *See* **Discovery** (Legal professional privilege).

### Limitation of action. *See* **Limitation of action**.

### Mareva injunction—

Generally. *See* Pre-trial or post-judgment relief—Mareva injunction, *post*.

### Mental health review tribunal. *See* **Mental health** (Mental health review tribunal).

### Nonsuit—

County court practice. *See* **County court** (Practice—Nonsuit).

### Order—

#### County court—

Enforcement. *See* **County court** (Judgment or order—Enforcement).

### Particulars—

#### Defamation cases—

Generally. *See* **Libel and slander** (Particulars).

## PRACTICE (cont)

### Parties—

#### Charity—

Charity proceedings. *See* **Charity** (Proceedings—Parties).

#### Description of parties—

Defendants sued as individual partners in Swiss general partnership—Partnership being separate entity but not a corporation under Swiss law—Whether defendants could be sued as individuals—Whether partnership should be named as defendant. **Oxnard Financing SA v Rahn** [1998] 3 19, CA.

#### Substitution—

Substitution of plaintiff—Company's cause of action assigned to individuals—Individuals applying to be substituted or joined as plaintiffs and obtaining legal aid to continue the action—Legal aid not available to company—Whether assignment valid. **Norglen Ltd (in liq) v Reeds Rains Prudential Ltd, Circuit Systems Ltd (in liq) v Zuken-Redac (UK) Ltd** [1998] 1 218, HL.

### Patent actions. *See* **Patent**.

### Patents Court—

Generally. *See* **Patent** (Patents Court).

### Payment into court—

#### County court—

Generally. *See* **County court** (Practice—Payment into court).

### Pending proceedings—

Interlocutory injunction. *See* **Injunction** (Interlocutory—Pending proceedings).

### Personal injuries action—

#### Limitation of action—

When time begins to run. *See* **Limitation of action** (When time begins to run—Personal injury claim).

### Petition—

Insolvency. *See* **Insolvency** (Petition).

### Pleading. *See* **Pleading**.

### Pre-trial or post-judgment relief—

#### Interim payment—

Jurisdiction to order interim payment—Uninsured defendant—Plaintiff bringing action for negligence in relation to road traffic accident against uninsured defendant—Whether court having power to order interim payment to be made to plaintiff which Motor Insurers' Bureau would have to meet—RSC Ord 29, r 11(2). **Sharp v Pereria** [1998] 4 145, CA.

#### Mareva injunction—

Plaintiff suspecting breach of order and applying to cross-examine defendant—Whether cross-examination should be allowed—Whether defendant entitled to rely on privilege against self-incrimination. **Den Norske Bank ASA v Antonatos** [1998] 3 74, CA.

Third party interests—Plaintiff bank bringing proceedings against defendants for breach of trust and obtaining worldwide Mareva injunction—Proviso to injunction allowing for defendants' reasonable legal expenses—Whether expenditure of moneys under proviso could amount to further breach of trust—Whether recipient of moneys would be in breach of constructive trust as a result of knowing receipt or dishonest assistance. **United Mizrahi Bank Ltd v Doherty** [1998] 2 230, Ch D.

### Precedent. *See* **Precedent**.

### Privilege—

Defamation cases. *See* **Libel and slander** (Privilege).

### Queen's Bench Division—

#### Chambers proceedings—

Generally. *See* Chambers proceedings—Queen's Bench Division, *ante*.

### Review of taxation of costs—

Generally. *See* **Costs** (Taxation—Review of taxation).

### Service—

#### Notice of severance—

Joint tenancy. *See* **Joint tenancy** (Notice of severance—Service).

Overseas company. *See* **Company** (Overseas company—Service on overseas company).

#### Service by fax—

Transmission—Whether reasonable time should be allowed between arrival of document at fax machine and communication to person concerned—RSC Ord 65, r 5(2B). **Lady Elizabeth Anson (t/a Party Planners) v Trump** [1998] 3 331, CA.

#### Substituted service—

Defendant solicitor's whereabouts unknown—Plaintiff granted leave to effect substituted service of writ by serving on Solicitors' Indemnity Fund—Whether power to order substituted service where no likelihood that such service would bring proceedings to notice of defendant—RSC Ord 65, r 4(3). **Abbey National plc v Frost (Solicitors' Indemnity Fund Ltd intervening)** [1998] 2 321, Ch D.

### Setting aside arbitration award. *See* **Arbitration** (Award—Setting aside award).

### Setting aside judgment. *See* **Judgment** (Setting aside).

### Solicitor—

#### Costs—

Generally. *See* **Solicitor** (Costs).

### Statement of claim. *See* **Statement of claim**.

### Stay of proceedings—

#### Admiralty proceedings—

Jurisdiction. *See* **Admiralty** (Jurisdiction—Action in rem—Stay of proceedings).

#### Arbitration—

Generally. *See* **Arbitration** (Stay of court proceedings).

Court-martial. *See* **Court-martial** (Trial—Stay of proceedings).

Criminal proceedings. *See* **Criminal law** (Trial—Stay of proceedings).

### Striking out—

County court practice. *See* **County court** (Practice—Striking out).

### Substituted service—

Generally. *See* **Service**—Substituted service, *ante*.

### Substitution of parties. *See* **Parties**—Substitution, *ante*.

### Taxation of costs—

Generally. *See* **Costs** (Taxation).

## **PRACTICE** (cont)

- Trial—
  - Court-martial. *See* **Court-martial** (Trial).
  - Criminal proceedings. *See* **Criminal law** (Trial).
- Want of prosecution—
  - Dismissal of action for. *See* Dismissal of action for want of prosecution, *ante*.
- Writ—
  - Fi fa. *See* **Execution** (Writ of fi fa).
  - Generally. *See* **Writ**.
  - Service—
    - Generally. *See* **Service**, *ante*.
    - Oversea company. *See* **Company** (Oversea company—Service on overseas company).

## **PRECEDENT**

- Overruling of previous authority—
  - Declaratory theory of law—
    - Retrospective effect of overruling previous authority—Subsequent decision changing settled view of law. **Kleinwort Benson Ltd v Lincoln City Council** [1998] 4 513, HL.

## **PREGNANCY**

- Dismissal on grounds of pregnancy—
  - Discrimination against a woman. *See* **Employment** (Discrimination against a woman—Dismissal because of pregnancy).

## **PRESUMPTION**

- Undue influence. *See* **Equity** (Undue influence—Presumption of undue influence).

## **PRISON**

- Adult prison—
  - Detention of young offender. *See* **Children and young persons** (Detention—Adult prison).
- Letters—
  - Prisoner's letters—
    - Correspondence with legal adviser—Governor, by order, introducing revised rules for cell searching—Prisoners removed from cells and strip searched—Cell searched in prisoner's absence—Search of cell including inspection of correspondence with legal advisers—Whether governor's order valid—Prison Act 1952, s 47(1)—Prison Rules 1964, r 37A. **R v Secretary of State for the Home Dept, ex p Simms, R v Governor of Whitemoor Prison, ex p Main** [1998] 2 491, CA.
- Release on licence—
  - Life sentence—
    - Mandatory or discretionary life sentence—Tariff period—Young person aged 17 convicted of manslaughter on grounds of diminished responsibility and sentenced to detention for life—Home Secretary setting tariff period of nine years, later reduced to seven years—Whether tariff correct—Children and Young Persons Act 1933, ss 44, 53(2). **R v Secretary of State for the Home Dept, ex p Furber** [1998] 1 23, QBD.
  - Refusal to release on licence—
    - Danger to public safety—Prisoner serving mandatory life sentence—Prisoner having served tariff part of sentence—Home Secretary refusing to release prisoner on licence on ground that prisoner might commit serious non-violent offences—Whether Home Secretary's decision lawful—Criminal Justice Act 1991, s 35(2). **R v Secretary of State for the Home Department, ex p Stafford** [1998] 4 7, HL.
- Visits—
  - Visits by journalists—
    - Prison authorities applying order made by Home Secretary only allowing visits to proceed if journalists signing undertaking not to use information gained for professional purposes—Journalists refusing to sign and visits not allowed to proceed—Whether Home Secretary's order ultra vires—Prison Act 1952, s 47(1)—Prison Rules 1964, r 33. **R v Secretary of State for the Home Dept, ex p Simms, R v Governor of Whitemoor Prison, ex p Main** [1998] 2 491, CA.

## **PRIVATE HIRE VEHICLE**

- Licence. *See* **Road traffic** (Private hire vehicle—Licence).

## **PRIVATE INTERNATIONAL LAW**

- See* **Conflict of laws**.

## **PRIVATE LAW ACTION**

- Public law defence—
  - Statement of claim—
    - Striking out. *See* **Statement of claim** (Striking out—Private law action—Public law defence).

## **PRIVILEGE**

- Absolute privilege—
  - Defamation cases. *See* **Libel and slander** (Privilege—Absolute privilege).
- Legal professional privilege—
  - Documents—
    - Discovery. *See* **Discovery** (Legal professional privilege).
- Qualified privilege—
  - Libel and slander. *See* **Libel and slander** (Qualified privilege).
- Witness—
  - Immunity from civil action. *See* **Action** (Immunity from suit—Witness).

## **PRIZES**

- Amusements with prizes. *See* **Gaming** (Amusements with prizes).



**PROCEEDS OF CRIME**

Interlocutory injunction to restrain dealings with proceeds of crime. *See* **Injunction** (Interlocutory—Preservation of proceeds of crime).

**PROFESSIONAL INDEMNITY INSURANCE**

*See* **Insurance** (Liability insurance—Professional indemnity insurance).

**PROFESSIONAL MISCONDUCT**

Disciplinary proceedings—  
Publications concerning—

Contempt of court. *See* **Contempt of court** (Publications concerning disciplinary proceedings).

**PROPRIETARY ESTOPPEL**

Generally. *See* **Estoppel** (Proprietary estoppel).

**PROSECUTION**

Costs. *See* **Criminal law** (Costs—Prosecution costs).

**PROTECTED TENANCY**

Generally. *See* **Rent restriction**.

**PROVOCATION**

Murder. *See* **Criminal law** (Murder—Provocation).

**PUBLIC HOUSE**

Beer supply agreement—

EC rules on competition. *See* **European Community** (Rules on competition—Agreements preventing, restricting or distorting competition—Beer supply agreements—Public house).

**PUBLIC LAW DEFENCE**

Private law action—

Statement of claim—

Striking out. *See* **Statement of claim** (Striking out—Private law action—Public law defence).

**PUBLICATION**

Contempt of court—

Publications concerning disciplinary proceedings. *See* **Contempt of court** (Publications concerning disciplinary proceedings).

Publications concerning legal proceedings. *See* **Contempt of court** (Publications concerning legal proceedings).

Obscene. *See* **Criminal law** (Obscene publications).

**QUALIFIED PRIVILEGE**

Libel and slander. *See* **Libel and slander** (Qualified privilege).

**QUASI-CONTRACT**

Restitution. *See* **Restitution** (Quasi-contract).

**QUEEN'S BENCH DIVISION**

Chambers proceedings—

Practice. *See* **Practice** (Chambers proceedings—Queen's Bench Division).

**RACE RELATIONS**

Discrimination—

Employment—

Discrimination on racial grounds—Applicant dismissed from employment with local authority for alleged misconduct—Applicant contending that dismissal constituted racial discrimination—Whether fact that employer acted unreasonably in dismissing employee giving rise to presumption of 'less favourable treatment'—Whether absence of non-satisfactory explanation for less favourable treatment giving rise to presumption of racial discrimination—Race Relations Act 1976, s 1. **Glasgow City Council v Zafar** [1998] 2 953, HL.

Discrimination on racial grounds—Complainants employed by licensees in department store—Withdrawal of store approval of complainants thereby resulting in their consequent dismissal—Refusal of approval resulting in one complainant failing to obtain job with licensee—Complaints of unlawful discrimination—Whether store liable to complainants as contract workers employed by licensees—Race Relations Act 1976, s 7(1). **Harrods Ltd v Remick, Harrods Ltd v Seeley, Elmi v Harrods Ltd** [1998] 1 52, CA.

**REGISTRATION**

Fishing vessel—

European Community. *See* **European Community** (Fishing rights—Common fishing policy—Fishing vessels—Registration).

Land—

Generally. *See* **Land registration**.

**REINSURANCE**

Conflict of laws—

Jurisdiction. *See* **Conflict of laws** (Jurisdiction—Challenge to jurisdiction—Reinsurance contract).

Generally. *See* **Insurance** (Reinsurance).

**REMAND**

Remand in custody—

Generally. *See* **Criminal law** (Committal—Remand in custody).

## RENT

- Arrears—
  - Forfeiture of lease—
    - Generally. *See* **Landlord and tenant** (Forfeiture of lease—Arrears of rent).
- Restriction. *See* **Rent restriction**.

## RENT RESTRICTION

- Sub-tenancy—
  - Determination of superior tenancy—
    - Business premises—Flats within premises—Sub-tenancy of flats forming part of property let for business purposes—Whether property constituting ‘premises’—Whether on determination of superior tenancy of business premises residential subtenancy of part of property continuing to qualify for statutory protection—Rent Act 1977, ss 24(3), 137(3). **Wellcome Trust Ltd v Hammad, Ebied v Hopkins, Church Comrs for England v Baines** [1998] 1 657, CA.

## REPETITIVE STRAIN INJURY

- Employment—
  - Employer’s duty of care. *See* **Negligence** (Duty to take care—Employer—Employee developing symptoms of repetitive strain injury).

## REPORT

- Chambers proceedings, of. *See* **Practice** (Chambers proceedings—Queen’s Bench Division—Report of proceedings).

## RES JUDICATA

- Estoppel—
  - Generally. *See* **Estoppel** (Res judicata).

## RESCISSION

- Contract—
  - Shipbuilding contract—
    - Default in payment. *See* **Contract** (Shipbuilding contract—Default in payment—Rescission).

## RESIDENCE

- European Community—
  - Right of residence—
    - Workers. *See* **European Community** (Workers—Freedom of movement—Right of residence).

## RESTITUTION

- Contract. *See* **Contract** (Restitution).
- Investment business—
  - Generally. *See* **Investment business** (Restitution).
- Quasi-contract—
  - Money had and received—
    - Mortgage application—Express condition of mortgage offer that property to be used solely for residential purposes—Purchaser using property for commercial purpose—Mortgagor defaulting—Mortgagee obtaining possession of property and selling property at substantial loss—Mortgagee seeking to recover loss from solicitors acting for mortgagor and mortgagee, claiming by way of restitution account in quasi-contract for money had and received—Whether claim disclosing reasonable cause of action. **Portman Building Society v Hamlyn Taylor Neck (a firm)** [1998] 4 202, CA.
  - Unjust enrichment—
    - Contract. *See* **Contract** (Restitution—Unjust enrichment).

## RESTRAINT OF TRADE BY AGREEMENT

- European Community rules. *See* **European Community** (Rules on competition).

## RESTRICTIVE COVENANT AFFECTING LAND

- Discharge or modification—
  - Conditions to be satisfied—
    - Persons entitled to benefit of restriction agreeing to their discharge—Application for discharge or modification of restrictions—Persons entitled to benefit of restrictions failing to respond to notice of application—Whether failure to respond sufficient evidence of agreement to discharge—Law of Property Act 1925, s 84(1). **Re University of Westminster, University of Westminster v President of the Lands Tribunal** [1998] 3 1014, CA.

## RETROSPECTIVE OPERATION

- Statute—
  - Generally. *See* **Statute** (Retrospective operation).

## REVENUE

- Customs. *See* **Customs and excise**.
- Value added tax—
  - European Community. *See* **European Community** (Value added tax).
  - Generally. *See* **Value added tax**.

## RIGHT OF WAY

- Private right of way. *See* **Easement** (Right of way).
- Public right of way—
  - Generally. *See* **Highway**.

## RIVER

- Pollution. *See* **Water and watercourses** (Pollution of river).

## ROAD

Generally. *See* **Highway**.  
Traffic. *See* **Road traffic**.

## ROAD TRAFFIC

Drink—

Driving while unfit. *See* Driving while unfit to drive through drink or drugs, *post*.

Driving while unfit to drive through drink or drugs—

Specimen of blood or urine—

Procedure to be followed in requiring driver to provide specimen of blood or urine—Road Traffic Act 1988, ss 7(3)(4), 8(2). **DPP v Jackson, Stanley v DPP** [1998] 3 769, QBD.

Drugs—

Driving while unfit. *See* Driving while unfit to drive through drink or drugs, *ante*.

Motor insurance. *See* **Motor insurance**.

Private hire vehicle—

Licence—

Grant of licence—Appellant applying for licence after being acquitted of indecent assault—Local authority refusing application on ground appellant not a fit and proper person to hold a licence—Appeal to magistrates—Magistrates dismissing appeal after admitting hearsay evidence and applying civil standard of proof—Whether magistrates right to do so—Local Government (Miscellaneous Provisions) Act 1976, s 51(1). **McCool v Rushcliffe BC** [1998] 3 889, QBD.

## RULES OF COURT

Generally. *See* **Statutory instrument** (Rules of court).

Practice. *See* **Practice**.

## SAFETY

Employees—

Duty of employer under Health and Safety at Work etc Act. *See* **Health and safety at work**.

Food. *See* **Food and drugs** (Food safety).

## SALE OF GOODS

Passing of property—

Delivery of goods on sale or return—

Notice of rejection—Requirements—Notice of rejection given without specifying rejected goods and goods not available for collection at date of notice—Whether notice valid—Sale of Goods Act 1979, s 18. **Atari Corp (UK) Ltd v Electronics Boutique Stores (UK) Ltd** [1998] 1 1010, CA.

## SALE OF LAND

Mortgage—

Generally. *See* **Mortgage** (Sale).

## SCHEME OF MANAGEMENT

Municipal cemetery. *See* **Ecclesiastical law** (Cemetery—Municipal cemetery—Scheme of management).

## SCHOOL

Child unable to attend school—

Local education authority's duty. *See* **Education** (Local education authority—Statutory duty to make arrangements for provision of suitable education for children unable to attend school).

## SEARCH WARRANT

Police. *See* **Police** (Search warrant).

## SECURITY FOR COSTS

European Community. *See* **European Community** (Costs—Security for costs).

Generally. *See* **Costs** (Security for costs).

## SENTENCE

Custodial sentence—

Practical effect of sentence—

Explanation of effect of sentence to be given when sentence passed—Model form of words. **Practice Note** [1998] 1 733, CA.

Detention—

Children and young persons—

Generally. *See* **Children and young persons** (Detention).

Factors in assessing sentence—

Criminal conduct on other occasions—

Defendant indicted and convicted on specimen count charging him with criminal conduct of specified kind on specified occasion—Whether court entitled to take into account other offences when passing sentence, where defendant not admitting commission of those offences and not asking court to take them into account—Criminal Justice Act 1991, ss 2, 3(3), 31. **R v Kidd, R v Canavan, R v Shaw** [1998] 1 42, CA.

Imprisonment—

Length of sentence—

Fraudulent evasion of duty chargeable on goods—Aggravating and mitigating factors—Appropriate sentence—Guidelines—Customs and Excise Management Act 1979, s 170. **R v Dosanjh** [1998] 3 618, CA.

Life imprisonment. *See* **Life imprisonment**, *post*.

Release of prisoner on licence. *See* **Prison** (Release on licence).

Life imprisonment—

Discretionary life sentence—

Sentence of detention for life—Part of sentence to be served before case referred to Parole Board—Exercise of discretion in determining that part—Part to be served in case of young offender—Criminal Justice 1991, s 34—Crime (Sentences) Act 1997, s 28. **R v M, R v L** [1998] 2 939, CA.



## SENTENCE (cont)

Matters to be taken into account—

Early release of prisoners—

Conviction of further offence—Whether order for return to prison should be made—Criminal Justice Act 1991, s 40. **R v Secretary of State for the Home Dept, ex p Probyn, R v Secretary of State for the Home Dept, ex p Walker, R v Taylor** [1998] 1 357, QBD and CA.

Reduction—

Order for return to prison—

New sentence of imprisonment also imposed—Whether order for return constituting single term with new sentence—Criminal Justice Act 1991, ss 40, 51(2). **R v Secretary of State for the Home Dept, ex p Probyn, R v Secretary of State for the Home Dept, ex p Walker, R v Taylor** [1998] 1 357, QBD and CA.

Period spent in custody—

Short-term or long-term prisoner—Whether prisoner's status as long-term or short-term determined by sentence pronounced by court—Whether sentence reduced by prior time on remand—Criminal Justice Act 1967, s 67(4)—Criminal Justice Act 1991, s 33(5). **R v Secretary of State for the Home Dept, ex p Probyn, R v Secretary of State for the Home Dept, ex p Walker, R v Taylor** [1998] 1 357, QBD and CA.

Short-term or long-term prisoner—

Consecutive sentences—Defendant sentenced to separate consecutive terms of imprisonment by different courts—Defendant serving short-term and long-term sentences—Whether sentences to be treated separately or as single term for purpose of calculating defendant's release date—Criminal Justice Act 1991, ss 33, 51(2). **R v Secretary of State for the Home Dept, ex p François** [1998] 1 929, HL.

Young offender—

Custodial sentence—

Applicant aged 16 sentenced to six months' detention for one offence and one month each for other offences—Whether one-month sentences lawful—Criminal Justice Act 1982, s 1A. **R v Dover Youth Court, ex p K** [1998] 4 24, QBD.

## SERVICE

Generally. *See Practice* (Service).

Notice of severance—

Joint tenancy. *See Joint tenancy* (Notice of severance).

Writ—

Generally. *See Practice* (Service).

Oversea company. *See Company* (Oversea company—Service on overseas company).

## SERVICE CHARGE

Local authority houses—

Reasonable of covenant as to service charge. *See Housing* (Local authority houses—Tenant's right to buy—Service charge).

## SET-OFF

Community aid—

European Community. *See European Community* (Set-off—Community aid).

## SEVERANCE

Joint tenancy—

Notice of severance. *See Joint tenancy* (Notice of severance).

## SEX DISCRIMINATION

Employment—

Discrimination against a man. *See Employment* (Discrimination against a man).

Discrimination against a woman. *See Employment* (Discrimination against a woman).

Equality of treatment—

European Community. *See European Community* (Equality of treatment of men and women).

Generally. *See Employment* (Equality of treatment of men and women).

Pension—

Equality of treatment—

Generally. *See Pension* (Equality of treatment of men and women).

## SHIPBUILDING CONTRACT

*See Contract* (Shipbuilding contract).

## SHIPPING

Admiralty—

Jurisdiction. *See Admiralty* (Jurisdiction).

Bill of lading—

Dangerous cargo—

Liability of shipper—Cargo of groundnuts infected with Khapra beetle—Shippers and carriers unaware of infestation at time of shipment—Carriers required to dump whole of cargo at sea although no danger of beetle infestation spreading to other cargo—Vessel detained and delayed—Whether groundnut cargo being goods of a 'dangerous nature'—Whether shipper's liability excluded or qualified under Hague Rules—Whether shippers' liability divested by virtue of indorsement of bill of lading—Bills of Lading Act 1855, s 1—Hague Rules, art IV, rr 3, 6. **Effort Shipping Co Ltd v Linden Management SA, The Giannis NK** [1998] 1 495, HL.

Transfer of rights and liabilities—

Cargo of propane containing more than stipulated degree of corrosive compounds—Purchaser selling cargo to third party—Purchaser indorsing bills of lading to third party—Whether liability of purchaser as holder of bills of lading who had demanded delivery thereby discharged—Carriage of Goods by Sea Act 1924, s 3. **Borealis AB (formerly Borealis Petrokemi AB) v Stargas Ltd (Bergesen DY A/S, third party), The Berge Sisar** [1998] 4 821, CA.

Insurance. *See Marine insurance*.

Shipbuilding contract. *See Contract* (Shipbuilding contract).

## SHIPPING (cont)

Time charterparty—

Employment and indemnity clause—

Master to follow orders of charterers—Charterers instructing master to follow shorter route—Master taking longer route for safety of vessel—Whether routing instructions orders as to employment or navigation of vessel—Whether charterers entitled to deduct hire for additional days at sea and cost of extra bunkers consumed. **Whistler International Ltd v Kawasaki Kisen Kaisha Ltd** [1998] 4 286, QBD.

## SHOCK

Nervous shock—

Damages. *See* **Damages** (Personal injury—Nervous shock).

## SILENCE

Accused—

Adverse comment by judge. *See* **Criminal law** (Trial—Summing up—Adverse comment—Silence of accused).

## SLANDER

Generally. *See* **Libel and slander**.

## SOCIAL SECURITY

Income support—

Entitlement—

Person from abroad only entitled to income support if habitually resident in United Kingdom—Meaning of habitually resident—Social security appeal tribunal finding claimant from Bangladesh habitually resident on date of arrival in United Kingdom—Tribunal failing to consider whether claimant resident for an appreciable period of time—Whether tribunal wrong in failing to do so—Income Support (General) Regulations 1987, reg 21(3), Sch 7, para 17. **Nessa v Chief Adjudication Officer** [1998] 2 728, CA.

Invalidity benefit—

EC workers. *See* **European Community** (Workers—Freedom of movement—Social security—Invalidity benefits).

## SOLICITOR

Costs—

Contingency fee—

Arbitration—Conditional fee agreement between solicitors and client that fee payable only if client succeeded in arbitration—Whether agreement champertous—Courts and Legal Services Act 1990, s 58. **Bevan Ashford (a firm) v Geoff Yeandle (Contractors) Ltd (in liq)** [1998] 3 238, Ch D.

Fee payable only in event of party being successful in action—Agreement between solicitor husband and wife that if action lost no fee payable—Whether agreement champertous—Whether husband entitled to profit costs—Solicitors Act 1974, s 59(2). **Thai Trading Co (a firm) v Taylor** [1998] 3 65, CA.

Negligence—

Partnership—

Liability of solicitor for acts of partner—Plaintiff bringing action against partnership for negligence—Second defendant contending that he was not a partner in firm, but was merely held out as a partner—Whether second defendant liable on basis that he was held out as a partner. **Nationwide Building Society v Lewis** [1998] 3 143, CA.

Will—

Duty of care—Instructions to draw up will conferring benefit on identified beneficiary—Solicitor failing to ensure that testatrix severed her joint tenancy in property disposed of by will—Property passing by survivorship and gift to beneficiary ineffective—Whether solicitor owing duty of care to intended beneficiary—Whether solicitor liable in negligence to beneficiary. **Carr-Glynn v Frearsons (a firm)** [1998] 4 225, CA.

Professional indemnity insurance. *See* **Insurance** (Liability insurance—Professional indemnity insurance—Solicitor).

Undertaking—

Undertaking to apply sums lent solely for purpose of acquiring good marketable title to property—

Meaning of good marketable title—Whether solicitor's obligation absolute or qualified—Whether solicitor liable on undertaking. **Barclays Bank plc v Weeks Legg & Dean (a firm)**, **Barclays Bank plc v Layton Lougher & Co (a firm)**, **Mohamed v Fahiya (N E Hopkin John & Co (a firm), third party)** [1998] 3 213, CA.

## SPECIAL HOURS CERTIFICATE

*See* **Licensing** (Permitted hours—Special hours certificate).

## SPECIFIC PERFORMANCE

Lease—

Covenant to repair. *See* **Landlord and tenant** (Breach of covenant to repair—Specific performance).

## SPECTACLES

European Community—

Freedom of movement of goods. *See* **European Community** (Freedom of movement—Goods—Spectacles).

## STATEMENT OF CLAIM

Striking out—

Private law action—

Public law defence—Institute of Chartered Accountants having express power to create byelaws for purpose of regulating affairs—Former member challenging validity of byelaw and bringing action alleging breach of implied term in membership—Whether power to create byelaws subject to implied term requiring it to be exercised reasonably—Whether public nature of institute excluding private law remedy—Whether action should be struck out as an abuse of process. **Andreou v Institute of Chartered Accountants in England and Wales** [1998] 1 14, CA.

## STATUTE

- Retrospective operation—
- Pending proceedings—
  - Supreme Court Rule Committee making rules purporting to apply Act to proceedings begun prior to its commencement date—Act expressly excluding such proceedings unless provided for by Lord Chancellor's order—Whether Act applying to proceedings begun before commencement date—Civil Evidence Act 1995, s 16. **Bairstow v Queens Moat Houses plc** [1998] 1 343, CA.

## STATUTORY INSTRUMENT

- Rules of court—
- Power of Rule Committees—
  - Power to make rules giving Act retrospective effect—Supreme Court Rule Committee making rules purporting to apply Civil Evidence Act 1995 to proceedings begun prior to its commencement date—Act expressly excluding such proceedings unless provided for by Lord Chancellor's order—Whether Rule Committees having jurisdiction to amend Act so as to apply retrospectively—Supreme Court Act 1981, s 87—Civil Evidence Act 1995, s 16—Rules of the Supreme Court (Amendment) 1996, rr 8, 9. **Bairstow v Queens Moat Houses plc** [1998] 1 343, CA.

## STATUTORY NUISANCE

- See **Nuisance** (Statutory nuisance).

## STAY OF PROCEEDINGS

- Admiralty proceedings—
- Jurisdiction—
  - Action in rem. See **Admiralty** (Jurisdiction—Action in rem—Stay of proceedings).
- Arbitration—
  - Generally. See **Arbitration** (Stay of court proceedings).
- Court-martial. See **Court-martial** (Trial—Stay of proceedings).
- Criminal proceedings. See **Criminal law** (Trial—Stay of proceedings).

## STREET

- Highway. See **Highway**.

## STRIKING OUT

- County court practice. See **County court** (Practice—Striking out).

## SUB-TENANCY

- Protected tenancy. See **Rent restriction** (Sub-tenancy).

## SUBLETTING

- Subletting without consent. See **Landlord and tenant** (Covenant against underletting without consent).

## SUBORDINATE LEGISLATION

- Byelaw. See **Byelaw**.
- Statutory instrument. See **Statutory instrument**.

## SUBROGATION

- Circumstances in which doctrine applicable—
- Unjust enrichment—
  - Lender advancing sum of money under unsecured loan, containing express condition that borrower's creditors would postpone repayment of loans—Condition postponing repayment unenforceable against borrower—Whether unenforceable condition 'defective security'—Whether lender entitled to be subrogated to charge of creditor if security defective. **Banque Financière de la Cité v Parc (Battersea) Ltd** [1998] 1 737, HL.

## SUBSTITUTED SERVICE

- Generally. See **Practice** (Service—Substituted service).

## SUMMING UP

- Criminal trial—
- Generally. See **Criminal law** (Trial—Summing up).

## SUPERANNUATION

- Pension. See **Pension**.

## SURNAME

- Minor—
- Change of surname. See **Minor** (Change of surname).

## TAX

- Capital allowances—
- Income tax. See **Capital allowances**.
- Corporation tax—
- Company—
  - European Community—Discrimination on grounds of nationality. See **European Community** (Freedom of establishment—Discrimination on grounds of nationality—Corporation tax).
- Value added tax—
- Generally. See **Value added tax**.

## TAXATION OF COSTS

- Generally. See **Costs** (Taxation).

## TEACHER

- Generally. See **Education** (Teacher).



## TENANCY

Generally. *See* **Landlord and tenant**.

Joint tenancy—

Generally. *See* **Joint tenancy**.

## THEFT

Generally. *See* **Criminal law** (Theft).

## TIME

Arbitration—

Commencement. *See* **Arbitration** (Commencement).

Limitation—

Case stated—

Generally. *See* **Case stated** (Limitation of time).

Limitation of action. *See* **Limitation of action**.

## TIME CHARTER

*See* **Shipping** (Time charterparty).

## TORT

Action founded on—

County court jurisdiction. *See* **County court** (Jurisdiction—Action founded in contract or tort).

Company—

Liability of director for tort committed by company. *See* **Company** (Director—Liability—Tort—Tort committed by company).

Conspiracy—

Ingredients of tort—

Whether tort requiring unlawful act relied on to be actionable at suit of plaintiff—Whether injury to plaintiff having to be predominant purpose of conspirators. **Yukong Line Ltd of Korea v Rendsburg Investments Corp of Liberia (No 2)** [1998] 4 82, QBD.

Conversion—

Generally. *See* **Conversion**.

County court jurisdiction—

Action founded in contract or tort. *See* **County court** (Jurisdiction—Action founded in contract or tort).

False imprisonment. *See* **False imprisonment**.

## TOWN AND COUNTRY PLANNING

Breach of condition notice—

Validity—

Challenge to validity—Criminal proceedings for failure to comply with breach of condition notice—Whether defendant entitled to challenge validity of notice and validity of planning condition in criminal proceedings—Town and Country Planning Act 1990, ss 171B, 187A. **Dilieto v Ealing London BC** [1998] 2 885, QBD.

Building of special architectural or historic interest—

Listed building—

Consent for demolition—Whether building listed—Construction of list compiled by Secretary of State—Town and Country Planning (Scotland) Act 1972, s 52. **City of Edinburgh Council v Secretary of State for Scotland** [1998] 1 174, HL.

Permission for development—

Statutory presumption in favour of development plan—

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